over 200 new doctors and dentists have begun billing us since first of the year."

Is that where you got the figure 1400, 1200 plus 200? A. That is right.

Q. So that apparently as of September 4, 1948, there had been 1400 doctors and dentists that had been sending you the bills and taking your checks in that period of a year and a half? A. My answer is the same as it was when you asked me that in November.

Q. Could you give us some kind of an estimate about how many doctors and dentists took your tickets and sent you bills in 1946? A. I made none and I was not aware of any having been made then.

Q. Would you say it would have been half as many as in 1947? A. I don't know.

Q. You don't know.

The Court: Are those figures of yours individual doctors and dentists?

A. That is right, your Honor.

Mr. Jauregüy:

Q. Occasionally you have cases of doctors in foreign states treat your members? A. Quite a great many.

2647 Q. And do they generally send you the bills or does the patient send you the bill? A. I don't know what ratio, but it has been amazing to me that the degree of billing direct to the Association being made by some of these foreign doctors, for they didn't know nothing of our stability, our contract, but they have billed us directly.

Q. The proportion of those doing that, has that increased in recent years? A. I don't know about that.

2648 Q. Do you know Dr. Raaf? A. Yes.

Q. Does he take your tickets and send you bills and accept your checks? A. I would hesitate to embarass him and I would rather not answer that question.

Q. Your answer is that it might embarass him with the doctors? That is correct, isn't it? A. That is right.

Q. Dr. John Troemmell, I will embarass him myself. He does, too, doesn't he? A. Yes.

Q. I can assure you it is not embarassing to him. You say that doctors sometimes give you leads on where to go to get additional contracts. Has that tendency increased in recent years? A. I haven't noticed any tendency—haven't

noticed any increase in the number of time that that has happened.

Q. Could you give us some approximation of the number of leads that you get that way during the course of a year? A. Well, I would, offhand, say that we probably had forty-five or fifty leads in the last three or four years.

Q. Was that restricted to any particular locality of the state. A. No.

Q. Or pretty well scattered? A. Some of them 2649 have been outside the state.

Q. But, speaking of Oregon, now, are those leads restricted to any particular locality or are they pretty well scattered? A. No, pretty well scattered.

Q. That is cooperation with the company, isn't it? A. Yes.

Q. That is pretty good cooperation? A. Yes.

Q. You don't pay the commission for that? A. No.

Mr. Jaureguy: That will be all.

Redirect Examination

By Mr. Marcus:

Q. What is the fact in 1946, when you became General Manager of Industrial Hospital Association, there were doctor boycotts against the company?

Mr. Jaureguy: Objected to as a leading question and calling for a conclusion of the witness.

The Court: Answer.

A. It was in 1947.

Mr. Marcus:

Q. 1947? A. That is right.

Q. Is your answer Yes or No? A. My answer 2650 is Yes.

Q. In 1950, as we stand here, are there still doctor boycotts?

Mr. Jaureguy: The same objection.

Mr. Marcus: As far as you know, with respect to Industrial.

Mr. Jaureguy: The same objection.

The Court: Answer.

A. Most emphatically there is.

Mr. Marcus:

Q. Save for the purpose of this case, is it your understanding that Drs. Raaf and Trommald would be embarassed by having it known they were associating directly with your association?

Mr. Jaureguy: Objected to, your Honor, as incompeten irrelevant and immaterial and calling for a conclusion of the witness.

The Court: Answer.

A. I didn't get your question.

(Question read.)

A. There are some men who are so big that they might not be embarrassed. There are other men who have pleaded with me to refrain from making any remark which anyone could lead me into for giving their names.

Mr. Marcus: That is all.

The Court: When you say "boycott," will you please explain what you mean?

A. Yes. By that I mean when one of our subscribers reports to his doctor for care that the doctor will refuse
2651 to take the ticket, which from our standpoint does not in any way nullify our subscriber's insurance—but when a doctor will press for the sale of an OPS contract, will refuse to assist our subscriber to the extent of giving information willingly, without offhand remarks, to assist us in establishing our subscriber's claim.

Mr. Marcus:

Q. Can I explore that a little more with you? When a group of doctors in a particular area refuse to accept tickets of a concern or the employes of a concern and, because of that, you lose that account, do you consider that a boycott?

Mr. Jaureguy: I object to that, your Honor. It is testimony by the attorney instead of the witness; in other words, a leading question.

The Court: Answer.

A. Yes, I do.

Mr. Marcus: That is all.

Recross Examination

By Mr. Jaureguy:

Q. You don't seem to be recalling the testimony you gave in answer to the Judge's question. Do you still believe that is a boycott, too? A. I believe,—which?

Q. When you explained to his Honor what a boycott was.

A. That is right. That is a term that has been—well,
2652 like "taking tickets"—peculiar to this industry.

Q. If a man takes tickets he is cooperating; if he does not take tickets, he is boycotting. Is that the way you understand it? A. That is not right.

Mr. Jaureguy: All right. Thank you.

(Witness excused.)

Mr. Marcus: Now, your Honor, when Mr. Marshall was on the stand on redirect examination he said, in response to a question by Mr. Jaureguy as follows:

"Q. You said first that you came under the Wages & Hours Act, and then later you said you conformed to it. Who told you you came under it? That is, you conformed by paying the wages and the overtime, but did anybody ever tell you if you didn't do it you would get in trouble? A. No, but I can read the newspapers, and I read the Kiplinger, and the Wall Street Journal, and various other things. I received their book of regulations, which anybody can get. And we have had some of our executives go over that and we determined that we were going to conform. Nobody has ordered us to conform, no."

I have here Plaintiff's Exhibit 2196. Defendants'
2653 counsel has agreed if the writer were called he would so testify. This a letter from John R. Dille, Regional Director of the Wage and Hour and Public Contracts Divisions, 150 Federal Office Building, San Francisco, California, dated February 7, 1950. It is addressed to me.

"If a properly authorized representative of the Wage and Hour Division of the United States Department of Labor, which is charged with the administration and enforcement of the Fair Labor Standards Act of 1938 as amended, were called upon to testify in the case which you are now handling in Portland, Oregon, he would testify that the official records of this Division maintained in San

Francisco, California, show that the Oregon Physicians Service has been considered by this Division to be within the general coverage of the Fair Labor Standards Act of 1938 as amended, in that its employes have either been engaged in interstate commerce, or in the production of goods for interstate commerce, or in processes or occupations necessary to the production thereof. The Oregon Physicians Service has so been notified and has been requested to pay back wages to the employes due under the Fair Labor Standards Act of 1938, as amended.

"The official records of this Division further show that in 1944 the Oregon Physicians Service, following an investigation of the activities of such Service, accepted
2654 the general coverage of the Fair Labor Standards Act of 1938 with respect to its employes but contested liability under that Act with respect to certain of its employes on the ground that such employes were exempt as bona fide professional employes within the meaning of Section 13 (a) (1) of that Act. The Oregon Physicians Service, at the conclusion of such investigation in 1944, also disputed the position of the Division that certain employes were jointly employed by the Oregon Physicians Service and by related employers. As a result of these disputes with respect to the exemption question and the joint employment problem, the Oregon Physicians Service declined to make back wage payments to the employees so involved.

"The records of this Division further indicate that negotiations between this Division and the Oregon Physicians Service were with Mr. E. E. Rubey and Mr. J. E. Harvey, Comptroller and Office Manager respectively of Oregon Physicians Service.

"At the conclusion of the 1944 investigation no litigation was instituted on behalf of the Wage and Hour Division. There have been no further investigations of Oregon Physicians Service since 1944."

The Court: This is the time for a recess, Mr. Marcus.

(Recess.)

2655 C. C. Bechtold, having heretofore been duly sworn, was recalled as a witness on behalf of Plaintiff, in rebuttal, and was examined and testified as follows:

Direct Examination.

By Mr. Marcus:

Q. Mr. Bechtold, you have already been heard as a witness, have you not? A. Yes.

Q. You are the General Manager of the National Hospital Association? A. Yes.

Q. Mr. Bechtold, you have looked over a number of the transcripts of the testimony of the doctors who have testified during the past two weeks, have you not? A. Yes, I have.

Q. Last week sometime at the close of the day's recess a spectator came up to us and said that after listening to the doctors he thought that they spent more time in medical school than they had in Sunday School. Is that the impression you had after reading these transcripts? A. Well, I haven't thought of it in those terms, but I was rather surprised at some of the things I read.

Q. Mr. Bechtold, several doctors testified that at some period the National Hospital Association discounted the Industrial Accident Commission's rates and pocketed
2656 the proceeds. Is that in your opinion false propaganda?

Mr. Jaureguy: No, they didn't say anybody pocketed the proceeds.

Mr. Marcus: Yes, you did. I don't mean you individually have said that, but your witnesses did.

Mr. Jaureguy: My witnesses did not.

Mr. Marcus: Go ahead and answer, Mr. Bechtold.

A. Couldn't be anything else.

Q. Can you explain the nature of your relations with the Industrial Accident Commission, please? A. Yes, I can. It is a rather long procedure. I would be very glad to do it.

Q. I think it has been one of the things which both the Court and we on this side have been quite confused about, so go ahead. A. Under the Workmen's Compensation Law in Oregon, as well as in Washington, provision is made for the Department to provide the service or it may contract for it, and that part of the law reads that the Commission shall have power to provide, under uniform rules and regulations, first aid to workmen entitled to the benefits thereunder, or to contract therefor in their discretion.

A little bit further on it also says they may authorize the employer to contract for that.

In the early days of the Workmen's Compensa-
2657 tion Law they did authorize the employer to contract for that on this basis: The law, as originally drawn, provided that in addition to the premium that employer paid into the fund the employe was to be assessed one penny per workday. That was paid into the fund by the employer.

In the early days, under the provisions of the first-aid section, it gave the Commission authority to authorize the employer to contract for it—a contract was drawn up by the Commission in which it provided that if the employer would provide doctor and hospital care for his employes the State would refund to him the amount that the employes paid in, which was one penny per workday.

Then Mr. Employer would contract that service to some doctor friend or to some hospital association, and would pay them the penny a day; in other words, for one penny a day we were expected to provide complete medical service and hospital care for injured workmen.

We felt, and many others did also, that it was ridiculous, that it just could not be done, unless we used a part of the money the men paid us for sickness, and to take care of injuries.

After a considerable period the Commission finally changed their policy in that respect, and they set up a fee schedule or fees or rates, rather, on a per diem basis. The law does not make any provision as to how the Com-
2658 mission shall pay for this first aid except it says it may contract for that, in its discretion.

As a result of that, they set up arbitrary rates and, as I recall, the sawmills had two and a half cents per workday, logging camps three cents per man workday, and so on; and for that fee we were required to furnish first aid supplies in camps, ambulance service, all necessary first aid, doctors' care, hospital care and everything that related to it.

Well, it was not too bad, for the reason that in those days hospital rates were very low and doctors' fees were very low. As I recall, the State Commission itself was paying —I think I may be wrong in this, but I believe they were paying $2.50 or $3.00 for the first call including the report. They always allowed a dollar for the report, so that meant $2.00 for the doctor's first call and he either got $1.50 for subsequent calls or a dollar. I am not clear on that.

2659 A. (Continuing) We were paying those days $14 a week for hospital care, but even at those rates we could not get by, and as time went on we appealed to the

Commission again, but we couldn't get any relief. So in nineteen—I don't remember the year—but we drew a bill and introduced it at the Legislature. I was instrumental in it, and it followed the law, the Medical Aid Act of the State of Washington, as relating to the payments. It provided that the commission should divide the industries of the State into classes according to the hazard, and that they should set up a standard of fees, standard rates, adequate to determine the—as I remember it—I have it here if anybody would care to see it—it provided they should set up rates adequate to provide, sufficient to provide proper care for the injured workman.

That law was supposed to go into effect on the first day of the following July.

We waited for some considerable time to hear from the Commission. We thought they would notify us what the new rates were to be. We didn't hear from them, and as time went on we finally got a little anxious. I got ahold of the other associations and some of the doctors to discuss the matter and finally decided that we should call on the Commission for help in the matter or call on them rather to fulfill their requirements under the law.

We met in Mr. Marshall's office in the forenoon.
2660 We were to meet with the Commission in the afternoon. I was elected chairman of the meeting. There were representatives there from all parts of the State. The Coos Bay people were there, Medford people were there representing the Southern Oregon Hospital Association. I am not sure whether Joe Hicks was there from Klamath Falls or not. I think he was. Mr. Donovan from Bend was there. There was quite a delegation. We met in the Commission offices in the afternoon.

I got up and I stated the purposes of our asking to see them to remind them the law was—they were required under the law to act and we hadn't heard from them, and I called on each person to support it. At this moment Mr. Marshall left the room. The discussion continued. I am not sure whether Mr. Marshall ever came back during the afternoon or not, but if he did it was after the discussion was over.

In any event we did not, we never got relief from the State Industrial Accident Commission, and today they never have put that law into effect. They have made some changes in the rates. I have the rates with me. I have the contracts with me that the State makes. We took those contracts a number of years and we finally refused to take

them. We have a few yet but very few, but the losses we sustained on them were so heavy we just could not do it.

Now, under those contracts we paid for the service that was rendered, and I don't know where the statement
2661 got out that we were collecting money and not turning it over to the doctors. It is not true.

I might go just one bit further on that. The Washington law in that same respect says this: That the Department of Labor and Industries shall each year on or before a certain date—I think it is on or before the 1st of February or 1st of March—they shall establish rates for the following year which shall be based on the experience of the previous year where they have no contracts; and, as a comparison, in the State of Washington now we are getting eighteen or nineteen cents per man workday, and the maximum rate in Washington—for logging camps—and the maximum rate in Oregon is 9 cents.

Mr. Marcus:

Q. Mr. Bechtold, I show you Plaintiff's Exhibit 2109 and ask you if this is a form of the contract used for State Industrial Accident Commission work.

(Form of contract in use by State Industrial Accident Commission, marked for identification Plaintiff's Pre-Trial Exhibit No. 2109, was thereupon shown the witness.)

A. It is.

Q. Now, Mr. Bechtold, one of the doctors who testified for the defendants stated that the reason his organization couldn't take accounts away from your organization was because you furnished employers with suits of rooms, wine and whiskey. Is that false propaganda? A. I don't
2662 think it is very complimentary to the employers.

Q. Well, is that false propaganda? A. I would consider it so, yes.

Q. Now, there were some doctors who claim that the National went around showing checks they got from doctors to other doctors in order to persuade other doctors to deal with them. Now, is that another type of false propaganda? A. Well, the National Hospital Association is pretty proud of itself, and we are given the credit of being the founders of this type of service in the United States. I don't think we would stoop to such tactics.

Q. Your answer is that this is false propaganda? A. It must be.

Q. Now, there have been several doctors who have said that National tells doctors how to treat patients. On the other hand, there have been some doctors put on by defendants' witnesses who say that, who said that National never has done any such thing. Do you consider that false propaganda, though, when doctors state that the National tells doctors how to treat patients? A. It is not only false propaganda but it is also very uncomplimentary to the doctor himself.

Q. Now, it has been said by a number of the doctors that at some time in the past the practice of National, and especially its General Manager, to have their patients referred to Portland. What can you tell us about
2663 that? A. Yes. There are times when patients have been referred, but not always to Portland. You have to understand the need for these things in order to understand my answer. In the first place, we have a responsibility. We have two responsibilities. We have a responsibility to the employer, to his employees, to see that they get proper care. Under the contract which we just saw there there is a written responsibility that unless we provide proper care for the employees—

Q. Are you talking about the Industrial Accident Commission contract? A. Yes—unless proper care is provided for the employees the contract would not only be cancelled but the services provided and we will have to furnish the service. That is true in Oregon and in Washington. So as a matter of common decency it is up to us to see that the employees receive proper care. So in certain cases we don't only permit patients to go to other centers for care, but we invite it. And there has been a lot of support, even from the better medical men themselves. We don't find—I will say this: that the men in the smaller centers realize they are not equipped to handle these cases and they are very cooperative men. I want to cite an instance. Last week we got a call from one of the employers in Roseburg. One of his men had a very badly injured eye. They have some very—
they have two or three eye specialists in Roseburg,
2664 and they are good men, but they don't have the facilities and they don't have the particular training in real technical cases.

The employer said this case was very serious, he thought, and wanted to know if he could be transferred either to Portland or some place else, San Francisco. In the meantime I learned that the doctor himself had already requested the transfer to a doctor in San Francisco. I called

the doctor and he was very cooperative. He said, "yes, Mr. Bechtold, this is a bad case. He has a piece of steel in his eye about the size of a shot. I removed it." And he said in doing so the eye has been damaged, and he said he didn't feel competent to handle it and he said "I am sending him to Dr. Black in San Francisco." He said, "Do you know him?" I said, "Yes, we do." He said, "Is it all right with you?" I said, "Certainly," and I said "he is a capable man.", and the man is in the Franklin or the Lane Stanford Hospital, one. That is what I mean by transferring cases.

I will go a little bit further. Under National contracts employees are privileged to go where they please, and it is not infrequent when a man is seriously injured that the wife or some relative of the patient himself will ask to be transferred, and they have that privilege. In other words, there is no such thing under National Hospital Association contracts as the patient having to get permission to move.

The doctor is considered, of course, and it is very,
2665 very seldom that the doctors don't willingly cooperate in that respect. Sometimes they don't, but not very often.

Q. Well, is it the exception of the rule for doctor's patients to be sent elsewhere than the locality where the doctor is? A. Beg pardon?

Q. Is it the exception of the rule to have to have the patient go elsewhere, send them elsewhere, Portland, San Francisco or some other place other than the place where the doctor is located? A. Not generally, no. The average case is taken care of right locally always.

Q. Now, Mr. Bechtold, you have either read or heard of Dr. Lehrbach's testimony? A. Yes, I did.

Q. Can you tell us what you know of those incidents that he was connected with? A. Well, that happened about two or three years ago. I got a call one evening from Kenneth Ford, who is the President of the Roseburg Lumber Company. He told me that they had a bad accident that afternoon, a man by the name of Ivan Doak. A cable broke and it wrapped around this man's body and he was very badly injured. Among his injuries he had an eye almost gouged out, and he said, "I am sending him to Portland tonight by ambulance." He said to have preparation made
to take care of him. We notified Dr. Leonard at that
2666 time, and I think he went—I don't remember which hospital, the Good Samaritan or the Coffey Memorial. When the doctor saw the case he said, "This man

will have to have a specialist." An eye man was one and Dr. Gaston was called. Later, I don't know how soon, but —incidentally, the pieces of the cable had broken off and penetrated into the man's body at various places. I know there was one in his elbow, went into his crazy bone, and there was one in his temple. But the man was in a pitiful state. For that service Dr. Raaf was called. There were three or four men on that case.

About a week later, somewhere there, I received another call from Mr. Ford one night. He called me personally because I know Mr. Ford. He said, "We have another case here we are sending to Portland," and he gave me his name. It was Harry Demuth. He said "He was very badly injured in the logging camp a short while ago but that he has been in the hospital here, but he is not getting along, and his people want him to come to Portland. I think he needs a specialist." He said, "He will be there this evening." I think he came that evening and got here about 10:00 or 11:00 o'clock. I don't remember the hospital. I think the Emanuel in that case. And Dr. Lucas and Chuinard had the case. And the man, the records show, that the man had some very badly torn tendons. About a week or ten days later we received two bills from Dr. Lehrbach. I don't remember the total amount of the bills. The two I
2667 think was $300, two or three hundred dollars, $300.
And on the one bill he had itemized it, on the Doak bill. I don't remember the full itemization, but one of the itemizations was "removal of the eye." Well, when I first saw that bill I thought the doctor had made a mistake because the eye had not been removed. It was removed here in the hospital by Dr. Gaston.

The other bill was suturing tendons, and the other work was done. With that bill, or with that patient, the doctor in Roseburg himself had sent a letter to the Portland doctor stating he had not made an attempt to suture the tendons, so thinking a mistake had been made in the doctor's offices, an innocent mistake—I didn't think anything else. I thought probably the girl had made a mistake like frequently happens.

I wrote the doctor a letter and told him there probably must have been a mistake made, that I noticed he said he removed the eye and the records showed the eye was removed in Portland. I also reminded him that the tendons that he said he sutured apparently hadn't been sutured there because his own note said he hadn't sutured the ten-

dons. They were sutured here in the Portland hospital by the specialist.

I received a reply to that. I am not sure it was from the doctor or from an attorney. I wrote him I had no intention at all to offend the doctor. I thought I was entirely right in our position, and I didn't think he would even question it, but I got quite a caustic letter in reply, and it was
2668 from the doctor, in which he said that those were his cases and we had taken them away from him and therefore we would pay the same fee as if he had kept them there.

Well, naturally we didn't feel like doing that. He hadn't done the work for one man—Mr. Ford told me later he only saw the one man one time—that is Mr. Demuth—he did the first aid work, put him up to ship in. The other man the records showed he had treated him in the hospital five days, in the Mercy Hospital, before he was transferred here.

On the strength of that we naturally didn't feel we should pay the amounts and we hesitated. We did finally, as a kind of a nuisance, we paid $225.

Q. Now, Mr. Bechtold, Dr. Max Hemingway of Bend, I believe, testified that he had to fill out a lot of National forms, gave the impression at least to me that he had to do that in your case more than any other case. Can you tell us what you know about that situation with respect to forms in North Bend and with respect to Dr. Max Hemingway? A. Well, Dr. Max Hemingway is a very good doctor and I think he is a very busy doctor, but he is not a good biller. His bills come in and they are very hard to decipher, and I heard about this and I hadn't paid much attention to it before, but I reviewed some of the bills, and that is true. We have had to write an unusually large number of letters to Dr. Hemingway to get the information, and he is the only doctor in Bend that we seem to
2669 have any difficulty with, but I don't think that is a reflection on Dr. Hemingway. I think it is a case where the man is a busy man and just been careless.

Q. Now, Mr. Bechtold, you probably heard me ask Mr. Brunkow a question with respect to X-rays. Now, what is the practice of your company when a doctor who sends in an X-ray wants it back? A. It is always returned to him unless—there is an exception there. When X-rays come in they are frequently sent in to the doctor here or to be given the doctor who receives the patient here. In that case the X-rays are turned over to the specialist, the pur-

pose of course, being to trace, run the stages of the case through, and in those cases, why, we would lose control of it here, but otherwise they are returned to the doctors.

Q. Now, Mr. Bechtold, there has been some testimony with respect to OPS taking types of coverage, or at least the suggestion has been made that OPS takes classes under their coverage which the commercial hospital associations do not, and I think teachers were specifically mentioned. Do you have teachers under coverage? A. Yes, we do. We also have some what we call old individual members under our coverage which I am very happy to explain if you care to have me do it.

Q. Well, will you? A. Yes. My company before I came with them were writing individuals and families.
2670 They wrote many, many families and individuals in this section. It was a very losing proposition. The company was getting a dollar a month for one person, a dollar and a half for man and wife. In time we found—we decided it just could not be done. We were just losing too much money. It was the days when Dr. Holt C. Wilson was still living. The matter came up in our business meeting of continuing writing these members and continuing these members. It was decided we would discontinue writing those contracts, but through Dr. Wilson the old members were permitted to remain and they are still there, those who are living.

He made the statement at the meeting that these people joined in good faith and so long as he had anything to do with it they would not be cancelled out. I have with me a letter from one of those old members, which we are very proud of, and I would be very happy to put that in evidence.

Q. Well, if you just tell us about it that will be enough. A. Well, several years ago one evening I was at the office about half past five and an old lady was talking to the girl on the telephone. She called over to me and said, "Mr. Bechtold, you don't remember me, do you," and I said, "No, I don't." She said, "Well, I am Mrs. Leonda." I said, "Oh, yes, Mrs. Leonda," and I didn't recall her right away. She said, "Don't you remember? My mother is in the hospital."
I didn't recall and I said, "Who is your mother?"
2671. She said, "Mrs. Haynes." I didn't recall her, but I said, "Was she injured?". "Yes, she fell and broke her hip. She is in the St. Vincent's Hospital." So I expressed my sympathy and we talked a while, and three or four days later I got a letter which is one of my treasures. Mrs. Leonda wrote a letter telling what the National Hospi-

tal Association membership had meant for her and her mother. She reminded me she had been a member for forty years and she concludes her letter by stating this, "My mother is now 97 years of age and she is in St. Vincent's Hospital with a broken hip." She said that in the letter. And she concludes by stating that one thing they had always been so happy about was that we didn't cancel out the members just because they got old.

Q. Now, Mr. Bechtold, one thing that hasn't been brought out in this case so far is what happens when you have a contract with an employer and the employer goes bankrupt.

Mr. Jaureguy: Object to that as not proper rebuttal.

The Court: Answer.

A. Well, in the State of Oregon and Washington we are given a preference in claims. We come next to the State Industrial Accident Commission. But if there is no funds available, why, we just don't get it, neither does the State nor anybody else. Does that answer your question?

Q. What do you do with respect to the employees that have been under that contract? A. You mean pa-
2672 tients in the hospital?

Q. Yes. A. Well, they are taken care of.

Q. That is, the company continues to take care of them even though the— A. Oh, yes.

Q. —the employer has gone bankrupt and there aren't funds to pay you? A. We fulfill our obligations.

Q. Now, there has been testimony in this suit with respect to doctors objecting to brokering of services. A. What?

Q. Well, that is Mr. Jaureguy's way of expressing, I think, an open panel. Anyway, he uses that term, "brokering services", and some of the doctors stated that is what they don't like.

Now, the question I want to ask you is whether or not in your business doctors who have cooperated with you have not given you leads to new accounts? A. Yes,
2673 we get leads from doctors quite frequently.

Q. Could you say whether during the period 1936 to 1939 you got leads to contracts in the Medford area, from the doctors down there? A. Yes, we did. When is that period? What date did you say?

Q. 1936 to 1939. A. Yes. That is a long time, Mr. Marcus. We have always been getting leads, but to identify the years—I am sure we did, yes.

Q. Would you be able to identify them by the names of doctors? How about Dr. Inskeep? A. Dr. Inskeep used to furnish quite a few leads; so did Dr. Hayes.

Q. There has been some testimony here by Dr. Hartman. Dr. Hartman, among other things, said he had a dispute with you over the amount of various bills and statements that had been sent you, and one of those statements was, I believe, in the sum of $2300. My first question is this:

Dr. Hartman stated that he sent in these monthly statements to you people and you would pay him once a month.

Could you tell us, or give us your best approximation of about how many individual bills that would have covered if the doctor had billed the patient and they had in turn sent the bills in to you? A. I don't know.

2674 Q. Would you say it would be over a hundred?

A. Mr. Marcus; I don't think I got your question clearly.

Q. You have a monthly statement of $2300, for instance. How many—let's take it this way: How many patients would you assume would be treated under that one statement? A. Should be treated, or would be?

Q. Would be, in the normal run. A. That depends on what the condition was; if it was all large cases, injury cases, or surgical cases it would not be so many; if it was just office calls, it would be quite a few.

Q. Well, would you say over a hundred if it were just office work? A. Oh, yes.

Q. Would you say that if, instead of the doctor sending you a monthly statement, he refused to accept your ticket and sent bills to each patient, about how many bills would you expect to receive during that month, assuming the total was $2300? A. You mean for office calls?

Q. Yes.

Mr. Jaureguy: He doesn't know you mean office calls.

Mr. Marcus:

Q. Take treatment other than hospital treatment. That is what Dr. Hartman testified to. A. Well, I still can't—Mr. Marcus, it depends entirely on whether it is surgical work or not.

Q. Let's take it this way: When you get a bill in

2675 that amount, say for $2300, for patients treated over a month, and none of them include the hospitalization, would you consider that if the doctor had sent a separate bill for each call or each treatment to a patient, and

if, in turn, they had sent those bills in to you, that there would have been at least a hundred bills? A. Oh, yes. Normally, I would say yes.

Q. Is that not one of the ways in which the company is injured, when doctors do not accept tickets, when they receive all these bills and then, I suppose, have to correspond with the individuals and send out separate checks?

Mr. Jaureguy: I object to that as a leading question and as argumentative and not based upon anything in the evidence and not based on this witness' testimony.

The Court: He may answer.

(Question read.)

A. Well, it certainly makes an awful lot of extra work in our offices. If you have to process cases individually, why, you—

(By Mr. Marcus:)

Q. Mr. Bechtold, have you had occasion to register a complaint with other doctors with respect to the kind of bills that Dr. Hartman has been sending you?

Mr. Jaureguy: I object to that as incompetent, irrelevant and immaterial and hearsay.

The Court: He may answer.

A. Yes, I have.

2676 / Mr. Marcus:

Q. There has been some testimony by doctors who stated that they heard news but could never place their finger on it, that hospital associations were getting special rates from hospitals.

Taking the period of this complaint, 1936 to the present, is that, in your opinion, false propaganda? A. It is false, most assuredly.

Mr. Jaureguy: Mr. Marcus' question is not based on the evidence in this case.

Mr. Marcus: Dr. Fitzgibbon specifically said—made those charges, and when I tried to make a motion to expunge his remarks that motion was denied, and that is why I am bringing this out.

Q. Mr. Bechtold, in your experience what has been the effect on the subscribers of doctors not accepting tickets?

Mr. Jaureguy: Objected to as not proper rebuttal.
The Court: He may answer.

A. Well, from my observation and what they tell us many times we are thought to be at fault. There is always suspicion in the minds of employes as to what is wrong with the National Hospital Association, if a doctor won't take their tickets. Some employes report that doctors have told them we don't pay our bills and they give various reasons, excuses, to the patient, and that does not stop with the patient. Many times it reaches the employer and we have lost contracts on account of that factor.

2677 Mr. Marcus:

Q. Do you think it is discrimination when these doctors take OPS tickets and do not take yours?

Mr. Jaureguy: I object to that as calling for a conclusion of the witness. He has no business testifying to that.
The Court: Answer.

A. Well, if I understand the meaning of the term "discrimination" I don't know what else you would call it.

Mr. Marcus:

Q. Dr. McLean testified with respect to National that he had to ask permission to do certain things and sometimes would be asked to try other things first before trying out procedures that were operative or expensive, and that very frequently they were allowed or got permission to do something in connection with a patient and then later on were told that "they did not feel they should cover that and we would be left holding the sack."
Is that false propaganda?

Mr. Jaureguy: I object to that as calling for a conclusion of the witness.
The Court: He may answer.
Mr. Jaureguy: In the first place, it is not propaganda. It is the testimony of a witness, a witness' answer.
The Court: Answer.
Mr. Marcus: That is the kind of thing your wit-
2678 nesses have been doing.
The Court: Answer.

A. When I read that I was very much surprised Dr. McLean would make such a statement. The doctor knows that is not true.

Q. Dr. Waltz—

The Court: Give us the page.
Mr. Marcus: Page 1505.

Q. Dr. Waltz testified, with respect to the National Hospital Association:

"At various times I have had some considerable conferences with various members of both associations, particularly the National, and I certainly do not recall all of the things I talked with them about, but I did talk with them regarding their general policies regarding the care of patients."

Could you explain what you think Dr. Waltz meant by that remark?

Mr. Jaureguy: I object to that as calling for a conclusion of the witness.
The Court: He may answer.

A. Well, he probably was referring to his experiences, all right. He has come in our offices at various times—the doctor has a long period of practice out there—and discussed problems. I don't know what he had in mind unless it would be the hospitalizatioi of the patient.
2679 When he first went out there there was no hospital and there was only one—he has been out there many years. There was only one hospital at Hillsboro and that was run by an osteopath and the medics would not patronize it, so their patients had to come or used to come in here. I don't know what Dr. Waltz would have in mind other than that.

Q. Well, Mr. Bechtold, now we have Dr. Hayes testifying at Pages 1509 and 1510:

"When this contract was signed and the representative of this institution called to see me, I told him I would consider servicing their contract but I would like to have an opportunity to talk to some of the others of the medical profession in the county; that I was sorry they were entering into this type of medical service in this county because in the future it would undoubtedly produce some friction between the medical profession. So he said the contract would not be in action for about 30 days, so I told him the next time he returned to the county I would give him my answer."

Could you comment on that statement? A. I think Jim probably is getting overzealous here because it certainly is not according to my recollection of how Dr. Hayes was appointed.

Q. Will you tell us how he was appointed? A. I first met Dr. Hayes shortly after the first World War.

2680 At that time he was practicing in Portland and, if I recall correctly, I think he did some work for the Association. I think it was during our influenza period. We called all doctors when we could get them, and he had a number of cases, but he was a very good friend of Dr. Slocum, and Dr. Sabin, and Dr. Slocum came to me one day and told me Dr. Hayes was going down to Medford to locate and he said, "Charlie, if Jim goes down there and you have any work there I wish you would give it to Jim," so the natural thing for us to do was, when we got any business there, to tell them to see Dr. Hayes.

I don't know whether we saw him there or he came in our office to see us, but it is true, nevertheless, we did appoint Dr. Hayes to take care of our work at Medford.

Q. To your knowledge, did he want that appointment? A. Yes, he certainly did not refuse it and I am quite sure he wanted it.

Q. Do you know whether thereafter he ever protested because you were allowing other doctors in that neighborhood to also service those contracts? A. Well, as time went on and as the work progressed, we saw that it was necessary to put more men on, not only because the work was increasing but because of the changing situation, and we expanded, and that is when we opened it up to every doctor in Medford.

Dr. Hayes at that time protested; he came to me

2681 and said, "I pioneered thihs thing for you, Charlie. I don't think it is quite fair."

I would tell Jim this if he were here. I did tell Jim that night at a meeting we had with the doctors in Medford, and Jim didn't deny it.

The Court: Mr. Marcus, would you rather finish your direct tonight or go over until tomorrow? Whichever you wish.

Mr. Marcus: I would rather it would go over until tomorrow, your Honor. I do not have very much more, but it will take fifteen or twenty minutes and I would rather have it go over until tomorrow and then I have one other short witness after Mr. Bechtold, and probably Dr. Phillips.

The Court: 10:00 o'clock, Gentlemen.

(The excerpts from the deposition of C. C. Bechtold referred to by Mr. Marcus on Page 2630 are here copied:)

"Q. Nor have you any complaint that the doctor prefers that you remit to the patient directly rather than sending the check to the doctor? A. For all practical purposes I would say that it could go to the doctor or the patient; it would not make any difference. However, for business reasons it puts us at a considerable disadvantage
2682 when we have to meet that competition that enjoys the advantage of dealing directly with the doctors and accepting pay, many times much less than the pay they would receive from the Association. From the point of competition, it makes very disagreeable competition.

"Q. That is because the pay they receive from a competing concern is less than what they get from you? A. Well, there are many factors that enter into that. I do not know just how I can explain it. Probably some of the doctors could explain their position better than I could.

"Q. I think they are going to have a chance to do so. A. Probably so. I would like to be here when they do.

"Q. You may be around, listening to them, but, as you said before, it is a matter of indifference whether you send your check to the doctor or the patient. It is the doctor who suffers by not getting the check on many occasions. A. That is right. As far as the handling of the contract is concerned, it would not make any difference; but as far as business is concerned it makes quite a bit of difference.

"Q. It makes quite a bit of difference in what respect? You are the one who could answer that and not the
2683 doctors, it would seem to me. A. Well, it is a matter of competition. If competition is stifled, you don't have much of a chance through the methods employed in some places; it does stifle competition.

"Q. What is that method? A. The method you yourself have been describing. Doctors will refuse to treat patients who are members of the Association.

"Q. You say they do? A. In some instances; that has been reported to us, yes. Not only that, but they refuse to treat them as members of this Association and refuse to accept payments from the Association as a result of doing so, and, by doing that, they discredit the National Hospital Association in the minds of the members.

"Q. I thought you said it was a matter of indifference to you whether they did or not? A. I am not speaking about individual cases. I am talking generally, over all. These things have been injurious. Of course they are.

"Q. You say there have been cases reported where a doctor has refused to treat a patient. Give us a particular instance. A. I remember one case very distinctly that happened in the Legislature, where one of the men testified
—and that is a matter of record and you can get it—
2684 that a doctor in Corvallis had started to treat him and when he found out he was a member of the National, he refused to continue.

"Q. That was a fellow with a sliver in his finger? A. I think so.

"Q. That happened years and years ago, as I have been informed. A. That has been going on for some time.

"Q. What other cases have you heard of? A. I would not be able to state any specific cases, now, but I think they can be determined. I do not remember just now any specific cases.

"Q. About how many cases are there that you have heard of, would you say? A. Where they had been refused treatment?

"Q. Yes. A. I wouldn't want to state that.

"Q. Would you say as many as half a dozen? A. Yes, I presume so, and maybe more. These reports come to us; we do not always accept them as correct sometimes. Oftentimes we feel that probably the man himself, or the person who makes the report, has been a little prejudiced or has exaggerated it, but we hear those things quite
2685 frequently.

"Q. Do you have any verified instances, other than what you have been speaking about? A. We have not made an effort to find out.

"Q. So you do not have any cases in which you can put any actual credence, other than the one at the Legislature? A. No.

"Q. The rest of them are just rumors and statements? A. Reports that come to us, that is true.

"Q. You could not tell how many of those reports there might have been? A. No, I would not be able to do it; I would not be able to say.

"Q. But if any doctor does take care of any of your members as a patient, and treats him solely as a private patient, and otherwise treats him all right, and sends the bill and collects, you do not have any complaint about that?

A. Not if the information is properly furnished, no, we would not have; it is perfectly all right.

"Q. Are there very many doctors that do not furnish you the information? A. Yes, there are quite a few.

"Q. What information are you referring to? A. Well, the itemization of bills and sometimes it is necessary to have copies of X-ray findings and copies laboratory
2686 reports.

"Q. Don't doctors have an objection to turning reports and these things over to outsiders? A. Yes, I think they would, to outsiders; but we are not considered outsiders. We have a very material interest. If we are expected to pay account, of course we have to have certain information to determine the patient's eligibility."

* * * * *

"Q. Your objection, then, to the doctors in Lane County, for instance, in treating your members like they do other private patients, is what? A. What is that?

"Q. What is your objection to the conduct of the doctors in Lane County if they take your members and treat them like they do other private patients? A. Our objection is not that. Our objection is the same as that of any other business house that objects to a system that would preclude them from competing on an equal basis.

"Q. Well, apparently I haven't got that straight. It is perfectly satisfactory to you, as I understand it, if one of your members goes to a doctor in Lane County, or in any other county, and he is taken care of by that doctor,
2687 and is treated as a private patient, and the doctor does not even know he is a member of your Association when he is being taken care of? That is all right? A. That is all right.

"Q. What is there about the conduct of the doctors in Lane County that you do complain about? A. We do not particularly complain about Lane County. You brought that up. It is just a case of where doctors will tell a member, 'If you are a member of the National Hospital Association I can't treat you on your credentials in that Association, and when the member goes back to his employer and complains to the employer, 'I can't get service on my National Hospital Association credentials,' that discredits us and discourages the employer in continuing his relations with us. It is not the patient we complaint about."

* * * * *

"Q. What relationship, now? I am trying to get this information. What relationship exists between a doctor and a patient, except the relationship of doctor and patient?

"Mr. Marcus: I think the question perhaps should be clarified. I think what Mr. Jaureguy has in mind is
2688 the difference between the medical treatment and what occurs after the patient has been medically treated.

"Mr. Jaureguy: Yes.

"Q. As far as any relationship between your member and the doctor is concerned, the only relationship, as I understand it, is the relationship of doctor and patient? A. I am not trying to question that relationship but, from the information we receive, it does not end there.

"We receive information to the effect that a patient is many times told that he cannot be treated as a National member; he will have to pay his own bill and, at times, probably he has not got the money to pay the bill—I am am speaking now of reports that come to us. I cannot identify each report, but I can give you, generally, what I have in mind. If you want what I have in mind, I will tell you.

"The influence that occurs or that grows out of that relationship between the patient and his doctor, who is ardently opposing us, is then reflected on his employer who makes the contract, through the patient and through his union, so that we have had extreme difficulty in continuing our relationship with the employer and the employes because of the fact that the doctor has used that influence to discredit us."

* * * * *

2689 "Q. At the present time I am trying to find out what happens between a doctor and a patient. Your contention is that he says to the patient, 'I can't treat you as a patient of the National Hospital Association. I can only treat you as a private patient.' What other rumors or reports have you heard of things that doctors in Lane County have said to your members? A. Well, you are speaking specifically of Lane County. That is, quite generally, the reports we receive in any of these counties.

"Q. That they say that to their patients? A. That is right.

"Q. When they say that to the patient, they are telling the truth, aren't they? A. They are what?

"Q. They are telling the truth? A. I don't know whether they are or not.

"Q. They are telling the truth if they say—I am repeating here—'I can't treat you as a patient of the National. I can treat you as a private patient.' A. All I can say is that these reports come to us, and we are not permitted to deal with the doctors, as we formerly did, in those different counties, many times not through the wish of the particular doctor, but, from the information that we receive, they themselves are not permitted to do so."

2690 • • • • •

"Q. Back in the days before they had a free choice of doctors he was one of your principal doctors, wasn't he, Dr. Vandervert in Bend? A. I think they have always had a free choice of doctors in Bend.

"Q. Is that so? A. I think so. I do not recall any time that they did not have.

"Q. How are you getting along down in Douglas County? A. Not too good.

"Q. Not too good? A. No.

"Q. They have been taking your tickets up to a very recent time, haven't they? A. I do not recall just how long it has been.

"Q. Are there any doctors down there taking your tickets? A. I don't recall of any now.

"Q. Do you know Dr. A. C. Campbell? A. I don't know him.

"Q. How about Dr. Rehrbach? A. Rehrbach?

"Q. Yes. He has taken your tickets right up to

2691 recently, hasn't he? A. You mean Rehrbach?

"Q. Yes. A. I don't think he has; I don't think so.

"Q. Do you have any definite recollection of these doctors? A. It is pretty hard for me to recall. I do not handle the bills as they come in, and I don't know."

• • • • •

"A. Well, you went over the spots; went over it county by county. I said in each instance I didn't know who is sending bills and who is not or who is taking tickets or who is not. I don't know. But I do know in the locations you have mentioned that we are having difficulties.

"Q. Lane County? A. Lane County, that is right.

"Q. Marion County? A. Marion County.

"Q. Don't you think that is largely due to the fact that in those counties they have had their own organizations for selling prepaid medical care longer than any others?

A. No, I don't think that is in the picture so much. I think it is largely the result of the propaganda that has been used to discourage, either by intimidation or otherwise, men from cooperating with the National Hospital
2692 Association.

"Q. By 'propaganda' you mean what the doctors say when they talk to their patients? A. No, I mean the propaganda that is being used by the Medical Society itself on its members.

"Q. Lately? A. Well, I wouldn't say lately. I don't know what they are doing now.

"Q. You don't know of anything they have done along that line since 1939 or 1940, do you? A. Well, I don't know—Again, I think you probably should subpoena their records to show you that.

"Q. I mean, as far as it has come to your attention. A. I couldn't say that.

"Q. Do you mean that there has been some since 1940? A. Oh, yes.

"Q. You mean from the State Society? A. Well, I wouldn't know. I cannot state that it has been done; all I can say to you is my impression, from the information we have received.

"Q. You do not remember whom you received that information from, as I understand it? A. No, I don't remember that."

(Thereupon, at 4:00 o'clock P. M., an adjournment was taken until 10:00 o'clock A. M., February 10, 1950.)

2693 Court reconvened at 10:00 o'clock A. M., Friday, February 10, 1950, pursuant to adjournment.

Mr. Marcus: Your Honor, I understand three of our offered exhibits have been rejected. I have no comment—

The Court: No. I asked the Clerk to tell you that I thought all of them seemed to be admissible except three (2059, 2126, 2063). I indicated I was willing to hear argument on those.

Mr. Marcus: I have no comment to make with respect to two of them, but with respect to 2063—that is the correspondence which relates to Dr. Smiley—if I might have permission to put Mr. Brunkow on the stand and ask him a couple of questions, I will withdraw it.

The Court: I am not willing to admit that correspondence which is between Dr. Smiley and somebody else.

Mr. Marcus: If your Honor would permit, I would withdraw these documents and just ask Mr. Brunkow a couple of questions. Mr. Brunkow is here. I would like to finish up.

RAY BRUNKOW, having been previously duly sworn, was recalled as a witness on behalf of the Plaintiff, in rebuttal, and was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mr. Brunkow, did the Industrial have a doctor
2694 by the name of Dr. Smiley located in Westport for a period of time? A. Yes.

Q. And did you receive complaints from the union with respect to him?

Mr. Jaureguy: Objected to as incompetent, irrelevant and immaterial; never brought to the attention of Dr. Smiley.

The Court: He may answer, Yes or No.

A. Yes.

Mr. Marcus:

Q. Was that the reason you thought it necessary to dispense with his services? A. Partially so. We received complaints from the three mills, the management of each mill.

Q. One other question: I believe you requested that I clear up some confusion with respect to Dr. Moore's salary. He is in California, is he not? A. That is right.

Q. Would you clear that up? A. The salary that I quoted was incorrect. Dr. Moore's salary is $1500, not $1800, and has been since June or January of 1942.

Mr. Marcus: That is all.

Mr. Jaureguy: No questions.

(Witness excused.)

2694-A (Documents heretofore marked for identification as Plaintiff's Nos. 2044 to 2058, inclusive; 2060, 2061 and 2062; 2064 to 2082, inclusive, and previously

described in the record, were thereupon received in evidence and marked Plaintiff's Exhibits Nos. 2044 to 2058, inclusive; 2060, 2061 and 2062, 2064 to 2082, inclusive.)

(Documents heretofore marked for indentification as Plaintiff's Nos. 2083 to 2125, inclusive, and 2127 to 2225, inclusive, were thereupon received in evidence as Plaintiff's Exhibits Nos. 2083 to 2125, inclusive, and 2127 to 2225, inclusive, and are described in a separate volume following the close of testimony.)

2695 C. C. BECHTOLD, having been previously duly sworn, a witness in behalf of the Plaintiff, in rebuttal, resumed the stand and further testified as follows:

Direct Examination (Continued)

By Mr. Marcus:

Q. Mr. Bechtold, I have before me Dr. Durno's testimony, at Page 1214 of the transcript, where he says that he quit working for the lay-owned hospital associations for several reasons. The first one was: "The remuneration which we received was not in fair accord with the practice and the services that I rendered."

To your knowledge, was there anything unusual about Dr. Durno's practice and services as compared with the other doctors in Medford? A. No, I think not.

Q. He stated that another reason was that "It became increasingly evident to me that any major procedure which was carried out or hoped to be carried out in Southern Oregon was urged to come to Portland for that treatment or for the carrying out of that procedure."

Is it true that it had become increasingly evident that patients were being funneled to Portland, patients of Dr. Durno? A. That is not true.

Q. At Page 1244 Dr. Durno testified in accordance
2696 to a question I asked him—this is the question:

"Q. So that your answer would be yes, that is, in some instances the basis of their rejection of payment was that they considered the particular ailment or treatment did not come within their contract." Your answer to that was: "A. Oh, yes, that was a familiar trick."

Was that observation of Dr. Durno's the type of false propaganda the Association has met with?

Mr. Jaureguy: Object to that as calling for a conclusion of the witness.

The Court: Answer.

A. I don't know how you could consider it any other way because it is not a true fact.

Mr. Marcus:

Q. Dr. Inskeep, at Page 1544 of the transcript, testified he quit taking tickets of commercial hospital associations because of two things. One was interference with his method of treating his patients.

Do you recall any interference with Dr. Inskeep's method of treating his patients? A. I do not.

Q. We will take up Dr. Inskeep's second reason with another witness.

Now, we come to the testimony of Dr. McKeown, Page 1617, and what he was dissatisfied with. He said he
2697 did not like "distant supervision and looking down the back of my neck to see whether I did things the way they liked them or not."

Did you or, to your knowledge, anyone else in National look down Dr. McKeown's neck to see whether he did things the way you liked? A. In the first place, I don't remember Dr. McKeown. I suppose he has a neck. But a statement of that character cannot help but be propaganda because it is wholly untrue.

Q. Dr. McKeown testified with respect to a meeting of the Coos Bay doctors, at which you attended, and he said this:

"The argument became quite bitter and Mr. Bechtold finally told us that he was establishing the plan and we would take it whether we liked it or not, that he was about to put it into effect and that we had nothing to say about it, that he was going to do it, and I might say that Mr. Bechtold left our meeting shortly afterwards."

Then a question by Mr. Jaureguy:

"Q. Was that argument on the part of all the doctors? Isn't it a fact that some of them got more heated than others? A. It became quite agitated, as one can readily see. Mr. Bechtold attempted to defend himself; and the doctors, likewise. There were several doctors that became

very angry, and Mr. Bechtold was finally asked to leave, which he did."

2698 Can you give your account of that meeting? A. Well, I feel rather complimented that I was alone and there were so many doctors there. I should have had some protection, I guess, according to that story, but the facts are not as he stated them.

To the contrary, we had a friendly meeting. The history of it is this: We were just coming out with a new contract for individuals and families. I will have to go back a little bit and consider it about that period. There was a demand coming for family and individual contracts. Right after that time we were concerned principally with group contracts, except for early individual contracts we wrote. It was being discussed in the medical societies and quite generally, and we did come out with a contract in 1939, and we were interested in having the doctors understand what the contract was.

I first visited the doctors in Roseburg, had luncheon there and a very pleasant meeting. I explained what the plan was. Then I went right to Marshfield by appointment with Dr. Peacock who I believe at that time was president. The doctor met me personally and took me to his home, and we went over to the meeting together.

We had a very friendly meeting and I explained the purposes of the contract. There wasn't one question that I recall in opposition. As a matter of fact, there was no occasion for opposition, because we did not ask them to favor it or anything else. It was simply a matter of

2699 explaining the idea.

Q. What was your relation with Dr. Peacock at that meeting, if you recall? A. Very friendly; not only with Dr. Peacock, but I was received, as I believe it states in the transcript; as a guest, and it was generally understood a guest must be treated with courtesy, and they treated me with courtesy.

I left the meeting and I returned that night—I believe I drove back as far as Roseburg.

Q. Were you at Dr. Peacock's house? A. I was there at Dr. Peacock's home before or after the meeting. I can't remember which.

Q. Dr. McKeown testified this way:

"They attempted to dictate how I treated my cases, and I didn't approve of that. I can give you the details, but I don't consider them relevant, sir. What I mean by that

is this: They told me when I could take GI studies; they told me when I could take X-rays; they told me when I could do surgery."

Do you recall ever doing those things with Dr. McKeown? A. I don't even remember Dr. McKeown, but I can say categorically that the National Hospital Association never told any doctor at any time how he should treat a patient.

It might be of interest to know if Dr. McKeown had had an X-ray at this period. Very few doctors had
2700 X-rays in their offices at that time.

Q. I didn't know that, Mr. Bechtold, or I might have asked that question.

Dr. Noble testified as follows on Page 1912:

"Q. What has been your experience with these hospital associations, some or all of them, whether they cause you any trouble or inconvenience or if you have any difficulties with them? A. Not any great difficulty in recent years.

"Q. What do you mean by 'recent years'? Since when? A. Shortly after OPS was organized.

"Q. Could you explain the difference between your experience in recent years and your experience prior to that time? A. It was not very satisfactory prior to that time.

"Q. What was there about it that was unsatisfactory? A. Well, we could only render first aid and no surgery. They invariably would ask you to send a patient in to Portland."

On cross examination Dr. Noble stated that there may have been a change prior to the time OPS was organized.

My question to you is whether in 1941 or in 1940 or even in 1936 it was invariably the custom of National to have patients sent to Portland? A. This is a matter of
2701 evolution. The smaller towns did not have hospital facilities up until comparatively a few years ago. I don't recall specifically the circumstances at McMinnville. I believe there was a hospital there; there are two there now.

It is true that in those days a large per cent of major cases did come to the larger centers, not only Portland but elsewhere.

Q. You say "in those days." Was that sometime prior to 1941? A. Yes, it was. It is just a matter of a gradual change from the old to the new, but it was not the policy of the Association or the practice. However, members did have the privilege of coming to Portland if they chose.

Q. Dr. Phetteplace, I believe, testified at Page 2050 as follows:

"Q. You were telling us about your experiences with the National back in the earlier days. I think there is one thing you did not mention, and that is that before you attempted to practice you worked for National? A. Yes, as a senior in medical school I had a little job with the National Hospital Association, going to the St. Vincent's Hospital every evening to see patients that had been admitted for that day and writing their histories and physical examinations, examining them as interns do."

Is that statement true or false? A. I don't remember Dr. Phetteplace in that position. I don't remember that he was a doctor in that position.

2702 As I recall Dr. Phetteplace, he answered telephones as sometimes many of the medical students in that day, and there is a possibility that Dr. Slocum might have had him do some work for him, but not for the National Hospital Association.

Q. Dr. Kullberg, at Page 2223, complained about this business of making reports. Can you explain to us whether the National Hospital Association requires reports every time a patient sees a doctor? A. It does not.

Q. Can you explain when these reports are required? A. Reports are only required in unusual cases; for example, if there is a question about the diagnosis, we naturally must know what condition was treated, but the general practice of requiring reports is not required.

Q. Mr. Bechtold, I want to read from several places in the testimony of Dr. Straumfjord, because he injected something into this case, and I want you to pay attention to this.

Dr. Straumfjord said at Page 2313 with respect to National:

"Not only did the patient have a restricted choice of physicians but the service rendered to patients was also variable.

"Q. Did you say variable? A. Variable, under apparently the same contract, and was dependent a good

2703 deal upon either the importance of the individual to the management perhaps or other factors which are not clear, and it was in many instances perfectly true that he who could squawk the loudest about the shortcomings of the service would get more."

Then, on cross examination we went into that and asked:

"Q. How do you know, Doctor? . . . A. I have been there for fifteen years and I know somewhat of the coverage that is applied to them from my correspondence, rejection of claims, and so on, and in one instance they would honor a claim and give him only six-months coverage, or other instances they would give twelve-months or eighteen-months coverage.

"Q. And you knew in each instance where that happened that one was an executive and the other was a laborer or one was the friend of the manager and the other was not a friend of the manager? A. I know that it often happened that way. Not in each case.

"Q. Actually you don't know. There might have been a question of coverage in one case and not a question in the other, isn't that so? A. I do know.

"Q. How do you know? A. I do know what I did for the patient. I do know what he received as hospitali-
2704 zation, and I do know that under the clauses, the same apparent clauses, one patient got more than another. I think that there is no difficulty in demonstrating that."

And then, a little further on:

"Q. I know individuals. I think of one right now who has been covered for ten years for one condition, and the contract says for so long usually. Now, I know of no contract, any of these hospital associations, I am sure never sold any contract which would cover a patient for ten years for the same condition."

Can you comment on that statement of Dr. Straumfjord's? A. Well, he made quite a few statements there.

Q. Comment as well as you can on various statements he has made about differences in patients, as far as the treatment patients would be entitled to get and his understanding of what the coverage was, and whether there was ever any contract which covered a person for more than ten years or for ten years. A. Dr. Straumfjord, in the first place, does not like me. He and I have had several differences, and his interest in defeating this trial, if he can get a chance, has probably perverted his memory, but, anyway, that statement the doctor makes regarding one patient getting privileges over another patient is a reflection
on him. He was the doctor. We are the insurance
2705 coverage.

Assuming what he says is true, he testified he was

taking care of this patient for fifteen years. Any doctor in my opinion who would permit a proposition like that to exist should not be permitted to practice medicine.

Q. I want to ask you this question: Is that statement true, as far as your Association is concerned? A. It is not true. It is true that we go beyond our contracts, yes.

Q. With respect to his statement that he has never known of a hospital association contract which covered more than for ten years, what can you say about that? A. Well, I don't know—I think all associations will take care of their cases beyond the period provided for in the contract. Conditions arise that will cause you to do that, and we have done it, and I think Industrial has and probably Oregon Physicians' Service has, but I do not think we should be condemned for doing it.

Q. Do you have a contract, any contract, which covers a person for more than a year? A. Our contracts are uniform. There is no difference, regardless of where they are written. They provide one year's doctor's care, six months hospital care, thirty days nursing care. They are the same for logging camps, sawmills, construction camps —they are universal.

Q. You have had some subscribers under these
2706 contracts for a period of longer than ten years, have you not? A. You mean membership under contracts?

Q. Yes. A. Many of them.

Q. Dr. Straumfjord also injected another thing in here when he said, at Page 2323 of the transcript:

". . . . I can recall many instances in which I requested specific references which were allowed, and many instances in which it was not permitted. That is, they assumed that they were able to tell better where my patient should go for special care than I.

"Q. Who do you mean by 'they,' that 'they assumed'? A. Oh, perhaps Mr. Kirk, perhaps Mr. Bechtold, as the case may be, depending on where the case was being referred."

Could you comment on that statement? A. I only recall one case where Dr. Straumfjord had a patient who later became a case for a specialist. I do not recall—oh, yes, Mr. (name of patient) was an employe of a box company at Warrenton. Quite a number of years ago he had a lung involved and was under the care of Dr. Straumfjord in one of the hospitals in Astoria.

His condition was not making progress and either
2707 the employer or Mr. (name of patient), or someone in his family, wanted to know if he could not be transferred to Portland.

Under the provisions of the contract we had that right. As a matter of fact—I am speaking now from memory and I may be wrong, but I think in discussing the case with Dr. Straumfjord I believe he agreed he should be transferred. The case was transferred to Dr. Bisaillon and Dr. Mathiesen. Dr. Bisaillon is dead. They examined him and they found he had a lesion of the lung. Dr. Mathiesen operated on the patient. That is one of the unusual cases.

The patient went back to work and is still living and is apparently in fair health. That was one of Dr. Straumfjord's cases. That is the only one I recall.

But any statement of Dr. Straumfjord's that we tried to direct his service is not only erroneous; I think it is malicious.

Q. That is true with respect to his statement that you would not refer patients to doctors to whom he wanted them to be referred? A. Well, that might have happened. That might have happened, because I found this, that doctors sometimes have a bosom friend that they like to refer cases to and we might have, at times, protested that. We go on the principle that the interest of the patient is more important than the interest of the doctor.

2708 I would say this, that if Dr. Straumfjord had attempted to refer a case like I have mentioned to a man who had no training in lung surgery I would certainly have protested and I would say, "Now, Dr. Straumfjord, we will not be responsible if the patient goes to that doctor."

Q. Now, Mr. Bechtold, Mr. Marshall testified that shortly after the Physicians' and Surgeons' Hospital Association was formed in 1931 he and a number of doctors associated with that group got in touch with Mr. Kirk and with you with reference to having you throw the panel open in that area, and he stated that there was no response from you, but at the legislative meeting in 1931 there was a chance meeting with two or three of the doctors, yourself and Mr. Marshall, and that they got no answer at all from you with respect to this matter of opening up the panel in that area. What do you recall of that incident? A. I should like Mr. Marshall to explain his change of attitude. This is the first time I have ever learned from anyone

associated with Oregon Physicians' Service that any of the other organizations were so magnanimous. It has been our experience that it is pretty hard to get their cooperation on matters even of legislative interest.

I have no recollection of any such correspondence having ever been received from Mr. Marshall.

It is possible that we did meet in Salem, as he suggests.

2709 We used to, during the Legislature. I might have met with some of their doctors but not for discussion of an open panel. Our experience had proved to the contrary.

We had at one time considerable business in Salem. We had the large paper mill there, and our relations with the employer were eminently satisfactory; with the employes it was very satisfactory; and with the doctors it was also very satisfactory until the Physicians' and Surgeons' Hospital Association was formed.

That organization included among its members, among its doctors, three doctors who were stockholders in the Oregon Pulp & Paper Company. We lost the contract; not immediately but within a year or two after they got organized they prevailed on the Oregon Pulp & Paper Company to give them the business.

I might add I had a letter at one time from Col. Fleming in which he protested—Col. Fleming was the manager, the local manager for the Oregon Pulp & Paper Company. He told me personally that he could not help this because he said, "These men are stockholders of ours and we have got to give them the business."

It hardly seems reasonable, with that experience, that Mr. Marshall later would invite me to a meeting to open up the panel. We had no business in Salem to speak of. They took it away from us.

Q. We had an elderly doctor by the name of Dr. Flynn

2710 from St. Helens, and he testified that he dealt with you people around 1929 or 1930, and he said that he went in with you people on the understanding that there would be an open panel in that area.

Do you have any recollection of his having taken that position? A. I hardly recall Dr. Flynn. I know he practiced there and I do know at a time that he was not objecting to treating members of the National Hospital Association.

Q. He said that most of the fees were one dollar and he found he could not buy sufficient supplies to take care of cases for one dollar. Could you comment on that state-

ment? A. If I knew the year he was referring to, I probably could.

Q. He said around 1929 or 1930. A. He probably is right to a degree there, because that was about the fees that the doctors were charging at that time.

Q. Then he had this to say, that one of the conditions that he took exception to was that the maximum for prescriptions allowed by the hospital association was 35 cents. Can you recall whether that was so in 1930? A. Well, there is an element of truth in that. In the early period it was quite the practice for insurance groups, the same with the railroads, to enter into contracts with a druggist for a flat fee for prescriptions. I think I am right. I don't think the railroads would either deny or dispute it. I think they were getting 25 cents a
2711 prescription; that is, the druggist. At times we probably paid 35 cents per prescription. I don't recall when it was, but I think we probably were paying that.

Q. Did you have contracts with druggists or drugstores in various parts of Oregon? A. Yes, I think we probably did.

Q. Mr. Bechtold, you have seen a letter written by the Deputy Commissioner of Insurance of California, have you not, which defendants' counsel has put in evidence? A. Yes, I did.

Q. Subsequent to that time did you receive a letter from your attorney in California with respect to that matter? A. Yes, I did.

Mr. Marcus: Your Honor, we are looking for that exhibit. That is one of those that was given to your Honor.

The Court: It would be hard to find, because it was on the loose there. You might go on to something else, if you can.

Mr. Marcus:

Q. Mr. Bechtold, has it been your experience that some doctors have dealt with National Hospital Association on a basis of trying to conceal the fact that they have been dealing with the Association?

Mr. Jaureguy: Objected to as incompetent, irrelevant and immaterial and as calling for a conclusion of the witness.

The Court: Answer.

Mr. Jaureguy: And not proper rebuttal.

The Court: Answer.

2712 A. Well, Mr. Marcus, that is true. It is rather an embarrassing question for us to answer.

Mr. Marcus:

Q. I was asking whether you had received a letter from your attorney in California. I show you Exhibit 2224 and ask whether this is the letter you received? A. Yes, it is.

Q. Mr. Bechtold, are the facts recited in that letter in accord with your knowledge of the facts, as you know them? A. May I make a statement there?

Q. Surely. Go ahead. A. I felt quite embarrassed when I learned Mr. Jaureguy had written to the Insurance Commissioner, and my first thought was to write to Mr. Maloney myself, because Mr. Maloney had been very fair with us, and I did not want him to think I was abusing his confidence. But, after giving it some thought, I decided I should better take it up with Mr. Groezinger, who was our attorney in San Francisco, and ask him if he would call on Mr. Maloney and tell him I had seen this letter and to give Mr. Maloney my apologies for having to use his name, and that letter was the letter I received in reply.

Q. Isn't it a fact, Mr. Bechtold, that much of your California business is transacted here; that is, the contracts are made here? A. A large per cent of it is; that is true.

Mr. Marcus: That is all.

2713 Cross Examination

By Mr. Jaureguy:

Q. I notice in the second paragraph of that letter from the attorney it says:

"I feel certain that what you must have meant in your testimony is that you serviced accounts in California, rather than solicited them, and you either misspoke or were misquoted in the record."

Is the attorney correct in that regard? A. Mr. Jaureguy, sometimes when you answer a question you do not take into consideration the full purport of it.

In my talks with Mr. Maloney it was primarily for the purpose of working out a plan under which we could

operate in that state under their laws. I believe I have stated that they have no law in California comparable to our laws here. In other words, there is no law there that relates specifically to hospital associations.

We have discussed this matter at various times, trying to work out a plan. That is where Mr. Groezinger comes in; so, when you ask a question about solicitation, I never even gave it a thought in that respect. I did not—in talking with Mr. Maloney it was not a matter of solicitation. It was a matter of our entering the field. They knew we were there. They knew we were doing business. I don't remember that he ever specifically mentioned
2714 "solicitation." There was no deception intended, I can assure you.

Q. Is the attorney's statement correct? A. As to what?

Q. Was the attorney's statement correct? A. You mean Mr. Maloney's statement?

Q. No, I mean Mr. Groezinger's statement? A. That Mr. Maloney gave him—

Mr. Marcus: What statement?

A. You mean the statement Mr. Maloney gave to Mr. Groezinger?

Mr. Jaureguy: No, the statement made to you in his letter.

Mr. Marcus: What statement?

A. I think he is repeating what Mr. Maloney said—

Mr. Jaureguy: I can't hear the witness and have Mr. Marcus talking, too.

A. I would like to see that letter, if I might. May I see the letter? I don't remember it.

Mr. Jaureguy:

Q. "I feel certain that what you must have meant in your testimony is that you serviced accounts in California, rather than solicited them, and either you misspoke or were misquoted in the record." A. Is that from Mr. Groezinger to Mr. Maloney?

Q. This is from Mr. Groezinger. I haven't seen Mr. Maloney's letter. A. That is his opinion. I don't know what he had in mind.

2715 Q. As a matter of fact, you have been soliciting accounts in California? A. Are you asking me that question?

Q. I am asking you. A. I know what you mean. We have solicited some accounts in California, yes.

Q. For how long? A. Well, it depends on what you mean by "soliciting." We have had a representative at Medford and he has at times solicited accounts in Northern California. That is very true.

What bearing does that have on this case? May I ask you that?

Q. No. I am not answering questions. You just answer the questions? A. Okeh.

Q. Your counsel thinks it has very much to do with the case.

Mr. Marcus: I do not.

Mr. Jaureguy: You do not?

Mr. Marcus: I do not. Don't misquote me, Mr. Jaureguy.

Mr. Jaureguy:

Q. This is interstate business. You know what that means? A. I think I do.

Q. Such as taking out an appendix, for example,— A. I think you asked a question about that.

Q. Well, you did tell the truth in your testimony
2716 the other time when you said that you were soliciting business in California? A. Mr. Jaureguy, I might make some misstatement. I don't do it intentionally. I try to tell the truth.

Q. That is not what I asked you, Mr. Bechtold. When your counsel was examining you, you gave specific answers. Now I want you to answer my questions. A. I surely will.

Q. Yes. Well, all right. You and I might as well get on a friendly basis here. A. We are. What is wrong with that?

Q. If we are going to continue that way, just answer my questions. You did tell the truth when you testified the other time, when you said you solicited accounts in California? A. Yes, I did. That is right.

Q. You did not tell the truth when you said that the Insurance Commissioner in California told you you might do that?

Mr. Marcus: He didn't say that. Read the testimony. That is not what he said under oath when he was here before.

Mr. Jaureguy:

Q. In the second place,— A. Mr. Jaureguy, I am a human being and I probably do make mistakes. I can tell you that I do not intentionally make mistakes; neither did I intentionally violate any law.

Q. I think you said a few moments ago you
2717 were going to answer my questions? A. I am.

Q. And my question is whether you did or did not tell the truth when you said the Insurance Commissioner of California— A. I told the truth as I saw the facts.

Mr. Jaureguy: Just a moment, please.

Mr. Marcus: Let's see what the transcript says there.

Mr. Jaureguy:

Q. Whether or not you told the truth when you said the Insurance Commissioner of California had told you that you could go ahead and solicit accounts in California? A. I hope you may understand that I was sincere. I thought that I was telling the truth, but, technically, I probably was not.

Q. Technically? A. Technically, probably I was not.

Q. You mean technically that he did not tell you that you could go ahead in California and solicit accounts? A. If you have a lot of conferences with people over long periods, you don't remember every word you said.

Q. Well, that is correct. A. Well, that is me.

Q. That is what you mean by "technically"? A. That is right. I do not remember discussing specifically "solicitation."

Q. But when you testified before you thought
2718 you had discussed it, is that it? A. I spoke of it generally—yes, I made that statement. I don't deny it, but I did not intend to lie to you, I can tell you that.

Q. Well, we are not going into that. We are not going into that, whether you intended to lie. A. I didn't think you thought I was lying, Mr. Jaureguy.

Mr. Marcus: That privilege is reserved for the other side's witnesses.

Mr. Jaureguy:

Q. Well, at the request of Mr. Marcus—ordinarily I do not comply with any of his requests in telling me how

I should ask a witness questions, but this time I am going to read to you what you did testify to.

Mr. Marcus: I wish you would, because I have that place in the transcript now and I was going to come to that on redirect.

Mr. Jaureguy:

Q. Page 524:

"Q. When were you admitted to do business in the State of California? A. We are not yet admitted to do business in the State of California.

"Q. You have tried to be admitted, haven't you? A. No.

"Q. You mean you haven't applied? A. Oh, applied? No.

"Q. You have never applied for permission to do
2719 business in California? A. No.

"Q. Therefore, you don't go down and solicit accounts in California, do you? A. Yes.

"Q. You do? A. Yes.

"Q. How do you get away with it? A. Well, it is a peculiar thing. It is kind of embarrassing for us sometimes. But the Insurance Department down there has been very generous.

"Q. Very generous? A. Very tolerant. They realize that we are doing pretty good work. At least they have told me that. But there is no law in California of the kind we have in Oregon."

Then we go on with two or three questions more—no, I had better read it.

"Q. No. They don't have a hospital association law either in Washington or California, do they? A. Yes, they do in Washington.

"Q. They do now? A. Yes, and they permit us in California to continue.

"Q. You mean they permit you to go down there
2720 and solicit accounts? A. Yes.

"Q. By that you mean you have not been charged with violating the law? A. No. No, I had a very nice talk with the Deputy Insurance Commissioner two weeks ago. We are able to qualify and probably will in the very near future.

"Q. Are you qualified to do business in any other state? A. No, just those two.

"Q. Just recently in Washington, and you hope soon in California? A. That is right."

Mr. Marcus: That is just an instance of the kind of misrepresentation of the record Mr. Jaureguy has been guilty of. He has read the transcript. There is no mention of any conversation with the Deputy Commissioner down there on the subject of solicitation. If so, I would appreciate it if Mr. Jaureguy would show it to me.

Mr. Jaureguy:

Q. Do you, Mr. Bechtold,— A. What is that?

Q. Did you get the question? The question is whether or not you find anything in your former testimony that the Commissioner— A. I don't have it before me.

Q. —that the Commissioner in California permits
2721 you—

Mr. Marcus: No, my statement was that there is nothing in the transcript which relates any conversation had by Mr. Bechtold with respect to solicitation in California. I stand on the transcript which you have just read.

Mr. Jaureguy:

Q. You testified yesterday that you have gone through these transcripts of testimony, the testimony of different doctors. You have, Mr. Bechtold, have you not? A. I glanced over them, yes.

Q. The testimony of all doctors who have testified? A. What?

Q. The testimony of all doctors? A. That is a lot of work. I have other things to do, Mr. Jaureguy. I glanced over them, but I did not go over all of it in detail, no.

Q. And you have looked at all of the letters that have been introduced in evidence? A. Oh, no.

Q. (Continuing) That you wrote to the doctors? A. No, I have not.

Q. You have had a representative in court all the time, have you not? A. There has been a representative here, yes.

Q. And he has advised you? A. Yes, he advised me some of the things that were said here, and I was very much surprised at them.

2722 Q. You had daily conferences with Mr. Marcus?
A. No, I didn't.

Q. Neither over the telephone nor in his office? A. No, I didn't.

Q. How often did you confer with Mr. Marcus? A. You are asking me one of those very difficult questions. I did not mark it down, but we discussed things, surely, sometimes.

Q. You also had discussions with the other three attorneys for the Government? A. Yes, we did.

Q. And what you have testified to now is in answer to everything that you have heard the doctors testify to and to the letters that they called to your attention, which you wrote? A. Now, wait a minute.

Q. You have now given your answer to everything that the doctors testified to that was called to your attention and to all letters that the National Hospital Association wrote to doctors that have been called to your attention? A. Well, I don't think I have seen many letters. As a matter of fact, I don't recall any letters that I have seen.

Q. One of the first things that was asked you when you were put on the stand was this:

"Last week sometime at the close of the day's recess a spectator came up to us and said that after
2723 listening to the doctors he thought that they had spent more time in medical school than they had in Sunday School. Is that the impression you had after reading these transcripts?"

I want to ask you whether you agree with the implication that all the doctors lied? A. I certainly do not. I think there are some very splendid men who were on the stand and I think some of them lied; some did.

Q. Which ones lied? A. Well, that might be embarrassing. I would not want to make that statement here. I think probably you know.

Q. Which ones lied? A. What?

Q. Which ones lied? A. Mr. Jaureguy,—

Q. Give us their names. A. Mr. Jaureguy, that is my opinion. I think there have been quite a few misstatements made. Let's put it this way. That is a kind of a harsh word to use. Let's put it this way, that they have perverted memories.

Q. Would you go this far, that every doctor was making an honest effort to tell the truth? A. No, I certainly do not. I would say just to the contrary.

Q. All right. A. I think every doctor attempted
2724 to cover up his own sins.

Q. Give us the names of those who either lied

or were not making an honest effort to tell the truth. You have already named Dr. McLean as having lied. A. No, I didn't. No, I didn't say anything of the kind. You introduced that yourself.

Mr. Marcus: I am going to object to this line of questioning. I think it is decidedly beyond the scope of cross examination.

A. Let him go. I kind of enjoy it.

Mr. Marcus: Furthermore, unless Mr. Jaureguy can bring out that this witness knows all the testimony of all the doctors who were present, clearly he is not in a position to answer these questions.

Mr. Jaureguy: When a lawyer asks that kind of a question, he has got to expect this kind of cross examination.

The Court: Continue.

Mr. Jaureguy:

Q. Just give us the names of the doctors that you think lied. A. Would you ask me the specific questions and then I could tell you whether they lied or not.

Q. You want me to name the doctors? A. No. Name specific questions where you want me to answer whether they lied about it or not.

Q. Anything; anything at all, whether it was the
2725 name and address or what they thought about the National Hospital Association. A. I don't recall who said what. I can't keep that all in mind. Ask me some questions and I will tell you whether I think it is right or not.

Q. You just answer the question I ask you, please. Do you mean to say you could read some lies about the National Hospital Association and now you can't recall what they are? A. I can't recall who said them. No, I don't think I can recall. There were so many of them I couldn't tell.

Q. You tell me of any statement that was made by any doctor. You have told us Dr. McLean has lied. A. No, I didn't say Dr. McLean had lied. I wouldn't want—don't try to misconstrue my statement. That is not fair on your part. If you want to try to impeach me, just try some other way.

Q. We will get along alb right if you will answer the questions.

(Recess.)

Mr. Jaureguy:

Q. I wonder, Mr. Bechtold, if you could tell us now which doctors, besides Dr. McLean, lied. A. I would like to make a statement. I didn't say Dr. McLean lied. If you ask me questions, I will tell you whether that was a lie or not; and if it fits the doctor, it is okeh with me.

Q. You are refusing to answer my question? A. I do, yes, that way; yes.

Q. Well, you say you did not accuse Dr. McLean
2726 of lying? A. No, I didn't.

Q. I am reading from Page 2678, your answer:

"When I read that I was very much surprised Dr. McLean would make such a statement. The doctor knows that is not true."

A. Yes, I might have said that.

Q. That is not the same as lying? A. I beg your pardon?

Q. You did not mean by it he was lying? A. I certainly did not say he lied. I can say a man knows it is not true. May I ask what the question is? I will give you my opinion of it now. What was that question?

Q. You are giving us your opinion now as to whether he lied or not, you mean? A. Yes, I will tell you.

Q. "Dr. McLean testified with respect to National that he had to ask permission to do certain things and sometimes would be asked to try other things first before trying out procedures that were operative or expensive, and that very frequently they were allowed or got permission to do something in connection with a patient and then later on were told that 'they did not feel they should cover that and we would be left holding the sack.'" A. Yes. Well, I would like to modify my statement there and, instead of saying that he knew it was not true, that probably his mind is not—not his mind, but his memory at least has been somewhat perverted, because the statement is not true.

2727 Q. Have you read the letters that are in evidence that you and the other men in your organization wrote to Dr. McLean? A. No, I have not. I probably wrote letters to him and I got some letters from him in reply.

Q. Don't you think it would have been a good idea for you to see them before you made such a statement about Dr. McLean?

Mr. Marcus: The statement stands.

Mr. Jaureguy: These remarks from the right flank, you can disregard those.

(Question read.)

A. No, I don't think so. I would not mind discussing that with Dr. McLean personally and tell him the same things I am telling you.

Mr. Jaureguy:

Q. Do you remember the letter about the varicose veins? A. Do you have it here?

Q. Do you remember the letter about the varicose veins? A. No, I don't recall at this moment. I would like to see it. Could I see it?

Q. You said you would not answer my question as to which of the doctors you thought lied. Will you tell us which of the doctors you think were not honestly endeavoring to tell the truth? Will you answer that question? A. Well, I think quite a few of them endeavored not to tell the whole truth. If I knew the question—I will say
2728 that if I knew what particular questions you are asking about I would be able to tell you.

Q. Suppose we take it up this way: Can you give us the names of doctors who testified here who were not honestly endeavoring to truthfully answer the questions that were asked them? A. I don't know whether they honestly endeavored to do it or not. All I know is that some of the answers given are not truthful answers.

Q. You have already testified which ones those are? A. Which what?

Q. Which answers are not truthful? You have already testified to those? A. Well, naturally I did some of them, yes.

Q. Some of them? Are there any other untruthful answers that you called to Mr. Marcus' attention or to the attention of any of the attorneys for the Government that you have not testified to? A. We were not discussing those very much, believe it or not, with the Government attorneys. You may be surprised with that, but I haven't.

Q. Answer the question, please. Answer the questions that I ask you. Are there any untruthful answers which you called to the attention of any of the Government attorneys that you have not testified to yesterday or today?

A. Mr. Jaureguy, I have got to answer that in this
2729 way: Frankly, I have not discussed many of those answers that Mr. Marcus asked about. I did not

even know they were going to ask them. They were not discussed between myself and Mr. Jaureguy.

Mr. Marcus: When you say "Jaureguy" you mean—
A. I apologize to you.
Mr. Jaureguy: Don't insult Mr. Marcus.

Q. I am handing you Exhibit 1881 which Mr. Marcus thinks was obtained from National Hospital Association. I want to ask you how that document got in the files of the National Hospital Association? A. Well, I don't—how it got in the files?

Q. Yes. A. Well, I wouldn't know. I didn't know that they had it. I suppose the FBI got that out of the files.

Q. I am not asking you how it got out of your files. I am asking you how it got into your files. A. I presume it was there. I don't know that we had it.

Q. Have you noted what it is? Have you read it before? A. Yes, I think this is the same thing, or something very similar—it is the same thing we used in the Legislature. We presented this to the legislative committee.

Q. You discussed that with Mr. Marcus, that memorandum, did you not? A. Yes, I believe we did discuss this memorandum. I think we did.

2730 Q. Where did you get it? A. I would not be able to tell you. It has been years ago. We used it, I know, in the Legislature. I know that.

Q. That purports to be a meeting of doctors—that purports to be a memorandum of what took place at a meeting of doctors and hospital administrators, as to what a certain person said in that meeting. I want to ask you if you had somebody in that meeting who furnished you that memorandum? A. Well, I don't recall just how we got that. I think it was in a report probably from some of the people that were at that meeting, maybe some of the doctors; I don't know.

Q. I will have to ask you again: Did you have somebody at that meeting who furnished you that memorandum? A. No. You mean did we appoint somebody to go to that meeting?

Q. I didn't ask you that. Did you have somebody in the meeting who furnished you that memorandum? A. What do you mean by "have"?

Q. Was there somebody at the meeting who furnished you that memorandum? A. Yes, I think there was.

Q. Who was that? A. Well, I believe two or three gave us this information.

Q. Who were they? A. Now, I believe one of them testified here, didn't he?

2731 Q. We had a lot of men testify here. A. I think you had better look up your record. I think it will show you. You know, you are asking me pretty puzzling questions.

Q. There are some puzzling questions in this case. A. Sure there are. I know it. I am not trying to evade the thing, because I am kind of proud of this, that we have it.

Q. You talked it over with Mr. Marcus. You did know that we were all dying to know where you got it. A. I think it came from the hospital people themselves or maybe some of the doctors.

Q. Who wrote it, then? Was it written in your office? A. I don't know that.

Q. It is possible, is it not, that there has been scarcely a meeting of the Council of a medical society since 1936, or a meeting of hospital associations, that there was not somebody present who relayed the information to you as to what had happened at the meeting?

Mr. Marcus: Objection, your Honor. That is irrelevant to the case, whether they ever had someone at a Council meeting. I wish they had; we could put in a lot more documents, if they had.

Mr. Jaureguy: Yes.

Mr. Marcus: I object to the question on the ground
2732 it is irrelevant.

The Court: Continue.

Mr. Jaureguy:

Q. At meetings of the Councils of the Multnomah County Medical Society and the State Medical Society, and meetings between doctors and hospital administrators, there has been hardly a meeting since 1936 but what you have had somebody there to relay to you the information as to what happened at the meeting? A. Mr. Jaureguy, you have certainly flattered us. I wish we had. I agree with Mr. Marcus. I think we would have something very useful to us there.

Q. Now that you have finished the speech, will you answer the question? A. The question, if I understand you right, is if we had somebody there. No.

Q. Was there somebody there who relayed to you the information as to what happened at the meeting? A. There has been a lot of information relayed to us from

different sources, sometimes even from doctors or sometimes from hospitals.

Q. Has there been any meeting of the Council of either of those two medical societies since 1936 but what there has been somebody present who relayed to you information of what happened at the Council meeting? A. No. I wish that we had.

Q. What percentage of Council meetings, then?

2733 A. Well, I don't know how many meetings they had.

Q. Once a month? A. I don't know that, so I couldn't figure it, couldn't figure out the percentage.

Q. There was somebody there who relayed the information to you? A. I am pretty good on figures, but I couldn't figure that one out.

Q. You have told us everything you know about this document, Exhibit No. 1881? A. No, I had not yet.

Q. Tell us the rest of it, then. A. Well, I introduced this at the legislative session, and there were several doctors present at that session, as I recall, and I think I challenged them to question it and they did not do it. Senator Rand—you might ask Senator Rand about it. He was there. He was chairman of the meeting, chairman of the committee. On the strength of this and a few more other important facts, the Senate committee reported that bill out favorably.

Q. 1947? A. Was it 1947? I do not know. I cannot remember dates.

Q. The Little Anti-Trust? A little Anti-Trust is good sometimes. A. What?

Q. A Little Anti-Trust. A. Well, it is a good one and should have gone on the statute books.

2734 Q. I know. That was your own opinion. A. Yes.

Q. But what did that memorandum have to do with that situation? A. I introduced this as one of the reasons why we should have a law of that kind.

Q. Do you have any other memoranda in your office of things that happened in meetings of Councils of the Medical Society, or any conference between doctors and hospitals? A. Mr. Jaureguy, after the FBI gets through going into your papers, I don't think you have got anything left.

Q. Now, can you answer my question? A. Do we have any?

Q. Yes. A. I would not know.

Q. You would not know? A. No.

Q. All right. This matter of the National Hospital Association telling doctors how to treat patients, requiring

them to get authority before they can do certain things, you said it would be uncomplimentary to the doctors if they permitted National to tell them how to treat patients or get authority before they could treat them or things of that kind, did you not? A. Yes.

Mr. Marcus: The statement was with respect to
2735 telling them how to treat them, not with respect to getting authority.

Mr. Jaureguy:

Q. Whatever your statement might have been. A. Yes.

Q. Will you elaborate on that a little, as to why it would be uncomplimentary? A. I think any doctor who would neglect a patient because somebody else, whether it was me or you or even some other doctor, if he conscientiously believed that the patient needed some type of treatment and he did not furnish that treatment to the patient because of some outside interest, I don't think that doctor would be worthy to practice medicine.

Q. Would you say the same thing would be true if a doctor got into a situation where he had to get authorization from a layman before he could carry on procedures or surgery? A. I can't conceive of that situation—can't conceive that situation could probably ever exist.

Q. Will you answer the question? Now will you answer the question? A. I have answered it.

Q. No. I asked you if that same answer would apply to a doctor who permitted himself to get into a situation where he had to get authority from a layman before he could operate or go through certain procedures? A. I don't—well, finish your question and I will answer it.

Q. Your answer to the preceding question was
2736 that he should not be permitted to practice medicine.

I asked you if a doctor should be permitted to practice medicine who got himself into a situation where he had to get permission from a layman before he could operate or carry on certain types of procedure. A. Well, I answered that.

Q. What is your answer? A. I said he should not be permitted to practice medicine.

Q. Do you still say that in the '30s, from 1930 on, you did not require doctors to get authorization from the National Hospital Association before they operated or carried on any extensive procedures? A. Mr. Jaureguy, I

know you are honest in asking that question. I think you have been influenced to believe that.

Q. Yes, by letters written by the National Hospital Association. A. I think you are quite sincere, but I can't recall of our ever having authorized a doctor or refused authorization to a doctor or hospital or anybody else to furnish services. We have, and do require information before we authorize it at our expense. We have to. Remember, we are insurance people. If we are going to pay a bill, we must know something about the case. We could not possibly stay in business if we didn't. This authorization business has been very much abused. That is not the purpose—

Q. You say the authorization has been abused? A. The term "authorization" has been very much abused and misunderstood.

2737 Q. Authorization has been abused by you? By whom? A. No, the term.

Q. I wanted to get you straight on it. A. Well, that is straight. The term "authorization" has been very much misunderstood. I believe you are honest. I think you really believe that but the fact is it is not true.

Q. You would not be surprised to learn that all I know about that is what I have read in letters you have written to doctors on the subject. A. It seems to me you must have been told something about these doctors because they told a lot on the stand here.

Q. Do I understand your answer, then, is this, that you did require doctors to get authorization but that in every case where it was merited you gave authorization? Is that your answer? A. Mr. Jaureguy, I wish I could find the letters to call the turn, but it is not infrequent that we receive letters now from doctors wanting to know if this person is eligible to operations or this service and so forth at the expense of the Association.

Q. I am not talking about that. A. In those letters they, of course, want to know because they want to protect themselves—that is the whole point behind obtaining authority.

Q. That is not what I am talking about. I am
2738 talking about the necessity of getting authorization when there is no question of coverage. Didn't you require that? A. No.

Q. In 1930? A. No.

Q. You never required that? A. No, not for that purpose.

Q. Well, I will tell you about one of the many letters we have. This is dated June 1, 1939, and is Exhibit 2627:

"Dear Doctor:

"It has come to my attention that several times recently you boys have performed operations without first taking the matter up with this Association as is required."

A. Yes, I wrote that letter; yes. I wrote that letter.

Q. Still, you say you do not require them to get authority to perform operations? A. Well, the term "authorization" has been very much misunderstood. You don't mean to tell me—Dr. Rankin I consider a very fine gentleman, and Dr. Wilson—he is deceased. Both of these men were very splendid men. I cannot conceive that they would neglect a patient awaiting authority from the National Hospital Association, but if we were to pay the bill then that was a different thing entirely. Then we would have to
2739 know about the case.

Q. You entirely misconstrued my question and your letter.

Mr. Marcus: You have, Mr. Jaureguy.

Mr. Jaureguy:

Q. I did not suggest Dr. Rankin ever neglected a patient, but I read your letter where you criticized him because he did not neglect the patient. A. To avoid misunderstandings on the bills when they come in, certainly. Otherwise there is always a squabble and misunderstanding.

2740 Q. Well, now, what you are saying now is nothing other than giving the reasons why you required authorization, isn't it? A. Yes.

Q. Yes. A. That is right.

Q. So you do admit that at least in the '30s that you did require doctors to get authorization before they operated? A. No, no, no. Now you are trying to put words in my mouth. Let's understand each other. I didn't say anything of the kind. They can operate on anybody they wish. That is their privilege; that is the relationship between the patient and the doctor, and as far as interfering with their relationship, we don't. But when they want us to pay a bill, Mr. Jaureguy, then we must know, of course.

Q. Know what? A. Know whether it is our case or not.

Q. So that is your answer to this statement: "It has come to my attention that several times recently you boys have

performed operations without first taking the matter up with this Association, as is required"? A. That is right. And they still are if they want us to pay the bill.

Q. That is what I am saying, that you still require them then to get authorization? A. If they want us to pay the bill we must know, certainly.

2741 Q. Now we are getting at what the facts are. In other words, the practice was that they could operate without authorization but if they did you wouldn't pay the bill? A. Oh, no, no. That is not true, either.

Q. What do you mean, then, when you say that they have got to get authorization if they expect you to pay the bill? A. Well, Mr. Jaureguy, I can see you are probably having a difficult time to prove that matter of authorization.

Q. Oh, not at all. A. I can only tell you this; that the purpose of authorization—I am not only speaking now for the National Hospital Association, but I think I can speak for others, even the Oregon Physicians' Service—is to clarify the situation so that there will be avoided misunderstandings as to responsibility. It is not only the doctors. You people have got the idea that the doctors are everything here. How about the hospitals? How about this special nursing?

Q. How about the patients? A. Yes. That is the important thing. You have all overlooked that.

Q. Oh, no. A. Oh, yes, you have.

Q. No. A. All the way through. This whole thing is in the interest of the doctor. You have forgotten that

2742 the important thing is the patient's interest. That is why I want—naturally, if a bill comes in to us, or a report comes in to us, that here is a man in the hospital who had an operation and he has had day and night nurses, he has had a private room, he has had X-rays, and we know nothing about the case, and then we finally clear it up and we find out that the man maybe wasn't even under us.

Q. You said a moment ago that a doctor maybe might overlook or not know the purpose of authorization. A. That is right.

Q. The purpose of what authorization? A. Well, the authorization that you are talking about.

Q. What authorization do you think I am talking about? A. You have forgotten one thing. As a result it is ingrained in your mind that the doctor has to ask us if he can do something.

Q. My questions are relating to the '30s you know. A. The what?

Q. 1930 to 1939 I am talking about. This letter is 1939. A. The same conditions prevailed then.

Q. What authorization do you say you mean and the purpose of it? A. The meaning and purpose of authorization?

Q. What is the meaning of authorization? A. You know, I am kind of enjoying this, Mr. Jaureguy. You know why? Because I want to clear this thing up. I think it should be clear not only for the purpose of this suit, but I think it should be cleared up in the minds of doctors gener-
2743 ally. Now I think that should be done.

Q. That is a pretty big job. A. Well, I don't think so. I think you boys make a mountain out of a molehill. But I am quite sure you will find that is a regulation of the State Industrial Accident Commission. You will find that is a regulation of the Department of Industries in Washington. You will find it is a regulation of the department in California. You will find it in the Oregon Physicians' Service. The Industrial Hospital Association has the same arrangement, that they must notify—the doctor must notify the Association in order to proceed with certain work.

Q. Is that all? A. That is what the whole purpose is.

Q. Yes. That is all, to notify them? A. To get the authority to proceed at the expense of the organization, yes.

Q. And that is the practice you follow? A. And other organizations and services follow.

Q. Before they can proceed with an operation at your expense they have to have authorization? A. May I clarify something there? Here I have something—

Q. You just leave it on the table and I will look at it. A. All right. I would like to have this shown, if I could.

Q. I would like to see it myself. A. I copied it this
2744 morning.

Q. Would you mind leaving it on the table during the noon hour? A. Be glad to, but I want to be able to explain it later on.

Q. Would you give it to Mr. Mahoney, please.

Mr. Marcus: I haven't seen it either.

Mr. Jaureguy: He is my witness. I have negotiated with him here and he said I could look at it.

Mr. Marcus: I have no objection to that. I just said I haven't looked at it either.

Mr. Jaureguy:

Q. I want to ask you some questions on another matter now. Now as I understand it, you justify the requirement

that you had in the '30s and may still have that doctors must get authorization before they proceed to operate because you say that others did the same thing? A. No.

Q. No. All right. I misunderstood you, then. Let me proceed with this letter, still quoting from 2627: "'I know you are not doing this intentionally, but this is one of the regulations we must insist upon being complied with. Otherwise the Association cannot assume the charges." Now you meant that, didn't you? A. That is right.

Q. "A recent case is the case of"—a named patient—"on whom I understand you operated for hemorrhoids." You remember that? A. No, I don't remember that.

Q. Now I want you to pay particular attention to
2745 this sentence: "Exceptions are always made in emergencies if after investigation it is shown that the person is eligible to care at the Association's expense." A. Yes.

Q. So I understand that if there was an emergency, then if you found that he was eligible to care at the Association's expense then there would be an exception and he could proceed to operate without specific authority; is that right? A. Yes, that is right.

Q. "Will you please mention this to the other boys and let us have your cooperation in the future. Yours very truly, C. C. Bechtold, General Manager." So that you did require them to get authorization before they could proceed to operate? A. Yes, that is right.

Q. Yes, that is a fact. Now, do you still stand by the statement that you made a few minutes ago that a doctor who placed himself in a position where before he operates on a patient he must get authorization from a layman is not fit to practice medicine?

Mr. Marcus: That is not what he said.

A. I think you are trying to place your own meaning on my statement, Mr. Jaureguy. You are a pretty good attorney. You have got a way here of coloring things.

Mr. Jaureguy: You are a pretty fair witness too, you know, Mr. Bechtold.

A. Thanks. But I want to go back again and say that
2746 the purpose of authorization was to clarify the situation and avoid misunderstandings. Now I want to make a further statement in that connection.

Q. Sure. A. You used the term "emergency" there.

When you deal with doctors you find, particularly if they are a busy doctor, they get a little bit careless.

Q. Yes, all of us do. A. They really do. They get a little bit careless in their profession. The doctors are all right in their profession, but in a business way they are notoriously poor businessmen.

Q. Bad billers. A. Sometimes you have to give them a pretty serious warning. Now I know those boys down there. They had a hospital and they were pretty busy men. I don't recall all of the circumstances of these cases, but I do know that it avoided an awful lot of misunderstandings if we could get this information in advance so we could look up the case and say, "Go ahead and do it." And I will say this too: Regardless of your term "emergency," the National Hospital Association has never refused to pay a case on its account whether the doctor was given authority or not. And I think I can say that for the Industrial Hospital Association.

Q. I appreciate what you have been telling me. Now I want to ask a further question, and that is that you
2747 please answer the question I asked you. A. What was your question?

Mr. Jaureguy: Will you read it, Mr. Reporter.

(The question was read as follows: "Now do you still stand by the statement that you made a few minutes ago that a doctor who placed himself in a position where before he operates on a patient he must get authorization from a layman is not fit to practice medicine?")

The Witness: I still stand on what I said.

Q. You still stand by that? A. Yes, I do.

Q. I don't suppose you have reported to the Board of Medical Examiners that there were many doctors in Portland or in Oregon that were doing your work and they could not operate without getting your authorization? A. Oh, I don't know, Mr. Jaureguy. A lot of things go through a business office. It is over thirty years since I have been there, and I probably made mistakes too. But I know one thing, that I am telling you the truth now.

Q. Oh, this time are you? Good. A. You bet I am.

Q. All right; proceed. A. I finished.

Q. Oh. A. I am finished.

2748 Q. All right. Now I am going to still stay with the 1930s. You had practically every serious case of one

of your members from St. Johns, from Oregon City, from Hillsboro, from St. Helens, from Forest Grove, brought into Portland for treatment, did you not? A. Well, I think there was a period there that was true. I think that was true.

Q. And how long did that continue? A. It continued until they got hospitals in some of these smaller towns. I know in St. Helens they didn't have a hospital at all for many years. Now they have a small one there, but it is not a very well appointed hospital now. But there was a time they didn't have any hospital.

Q. I am not talking about that. I am talking about the '30s.

Mr. Marcus: I wish counsel for the defendants would define his time a little more sharply. When you say "the '30s" do you have in mind 1930 all the way through 1939?

Mr. Jaureguy:

Q. What do you have in mind? A. Well, Mr. Jaureguy, seriously could I make one statement and probably cover the whole thing?

Q. You can make it, but I won't promise it will cover the whole thing. A. I will make it, anyway. When I first started to work there for the company we didn't have any
2749 highways. Well, St. Helens had one or two doctors; Rainier had one or two doctors, and a large percentage of the patients would come in on boats from the logging camps and sawmills.

Q. In the '30s? A. I started to tell you my story.

Q. Oh, yes. Pardon me. A. And they would come—a few would come in on the train; sometimes in boats. I remember in those days we would get a notice by telegram that a badly injured man was coming in on a certain train or would be in on a certain steamboat. I used to personally meet them. I would call an ambulance and I would go down myself to the depot or to the steamboat office or to the wharf or dock, and I would many times accompany those patients to the hospital. They had no facilities in the outlying districts. Then gradually the system started to develop. There were some surgeons here in town that did most of the work; that is very true.

Q. You had a limited panel here in Portland? A. That is very true. I can't deny those things. That was the practice in those days. The railroads had their panels, and still have. We had our contract doctors in those days. Some-

times one doctor would be taking care of three or four hundred men in a logging camp. Dr. Zan had a contract up here with the Oregon-American Lumber Company for many years. Well, as time went on and they got facilities
2750 out in the outlying districts conditions were changed.

I remember at Hillsboro they had no hospital there excepting a little home that was run by an osteopathic physician. Then later they installed a hospital there, and today that is one of the nicest hospitals in the State of Oregon. We have no reason now to bring a case in. In those days we did have.

Q. Before we were diverted—I may say that does not cover the whole situation, but before we were diverted I was asking you when you changed your system of requiring doctors in the towns that I mentioned to send all their serious cases to Portland. Would you say it was about 1940? A. To give the date would be impossible. It was a gradual evolution.

Q. About 1940? A. It was a gradual evolution. I wouldn't be able to tell you.

Q. Is the date that I gave as close as it would be possible to come? A. There would be no—there is no definite date. It was just a gradual evolution, I tell you.

Q. What places within a radius of 20 miles from Portland did you let the local doctors handle their own cases and treat their own patients? A. I can't say definitely, but I think as soon as they got the facilities to treat them there they treated them there.

Q. What town within 30 miles of Portland? A.
2751 Well, McMinnville.

Q. In the '30s? A. The Barendricks out there were doing very good work, and they owned their own hospital. There were the boys at Hillsboro. I think when Dr. Pitman went out there—but of course we have to admit these things, and I will, that sometimes we didn't know these facilities were being installed. It took a little time to get acquainted. You make your investigation and find out the facilities are all right, and then they are permitted to function.

Q. Sometimes it might go years before you found that out; isn't that right? A. Not very often. The doctors call your attention to it pretty closely.

Q. Now about 1940 you changed your system to some extent, did you not, by opening the panel throughout the state? A. I don't remember the period. I might say this: I again

want to repeat that it was a matter of progress. Now there has been a good bit said about Medford here. That was considered with us a kind of hospital center, cases from—let's see; what would they be there? Well, be around Prospect, they went to Medford. I can't think of any other towns around—well, there was Jacksonville.

Q. I don't think you are answering my question. A. Well, I am just trying to get in my own mind—but
2752 the thought was that the cases should go to the centers where they had the facilities to treat them. Now if it was Portland, that is all right. If it is Medford, that is all right. Salem is another place.

Q. At the present time, as I understand it, you have the open panel throughout the State of Oregon. A member can go to any doctor he wants to? A. Yes, sir.

Q. What I said was about 1940 you adopted that system? A. No, I think it was before that, Mr. Jaureguy.

Q. I will give you Exhibit 2683, which is a very sincere and kind invitation you gave to Dr. Martzloff to take care of your patients and I will ask you—

Mr. Marcus: Just a moment.

Mr. Jaureguy: I wonder if I could finish my question, please.

Mr. Marcus: I would like to object to the question.

Mr. Jaureguy: How do you know what it is going to be?

Mr. Marcus: I would like to object to the question because it is my recollection that we went over exactly the same thing the prior time that Mr. Bechtold was here, and I don't understand this method of conducting a trial in connection with the rebuttal.

Mr. Jaureguy: This hadn't even been marked as an exhibit then.

The Court: Go ahead. Continue.

Mr. Jaureguy:

Q. As I say, which was an invitation to Dr. Martz-
2753 loff to take care of your members, isn't that the direct turning point where you opened the panel to all the doctors in Oregon? A. No, I can't say that, Mr. Jaureguy.

Q. All right. A. Wait just a minute. You have got the wrong fee schedule here, too. Somebody slipped something over on you.

Q. On me? You are sure it wasn't you? A. No, no. They wouldn't do that. This is not the right fee schedule. Let's see. Wait a minute. Maybe I am wrong.

Q. Oh, no. A. Well, I might be. You can't tell. I have been known to make mistakes. Yes, that is not the right fee schedule.

Q. That is not right. You mean this is not the fee schedule that you sent to Dr. Martzloff? A. No, that is right.

Q. Where did he pick up all those fee schedules, I wonder? Now, the policies that you outlined in this letter of March 18th, 1940, I am going to read to you and see whether they are still the policies of your Association: "The purpose of these schedules is to acquaint the members with the fees that apply under their respective contracts, and the Association is not presuming to tell the doctor what his charge shall be."

Is that your present policy? A. Is that the letter or
2754 the schedule?

Q. That is the letter. A. That is right.

Q. That is still your present policy? A. That is right.

Q. "However, we feel you will find the fees fair for the particular contracts for which the respective schedules are intended. While the Association's responsibility is to the members, any payments made under the contracts are for the members' medical or hospital care and the Association reserves the right of paying the hospital or the doctor direct." That is, you reserved the right to pay the doctor direct; that is correct? A. That is right.

Q. And it was the member who was the one that normally you intended to file the claim; isn't that right? A. No.

Q. I am going to read now from Exhibit 2720, which is a letter from Mr. Page to Dr. Coyle of Medford, dated October 14th, 1946, in the second paragraph: "The Association has paid fees in accordance with Mr. Bechtold's letter in so far as the group industrial contracts are concerned. However, under the individual contracts the member makes arrangements for whatever care is required and thereafter presents a claim to the Association for payment through the member to the doctor up to the amount payable under the member's particular contract for reimbursement to the member." Did you understand that? A. Yes.

2755 Q. That is, you were explaining to the doctor that the doctor gives the bill to the patient, who is your member, and the member presents a claim to the Association? A. That is under the individual and family contracts; that is right.

Q. So as I understand it, it is the policy of your company that with respect to individual and family contracts the doctor is to render his bill to the patient who is your member

and the member is to get reimbursement? A. That is the contract that I discussed with the boys at Marshfield. That is the contract you are talking about, isn't it?

Q. Yes. A. That is a new contract that has nothing to do with the group contracts.

Q. Yes. A. Our principal business, as you know, has been the group contracts.

Q. But with these family contracts it is contemplated that the doctor will render his bill to the patient? A. That is right. However, a large per cent of the doctors still send their bills in, notwithstanding.

Q. And you don't object to that? A. No, we don't particularly object to that.

Q. You don't particularly object to that? A. No.

2756 Q. "Under the contract by which this"—named patient—"is covered his fees are based on the premium payments he makes to the Association, and office calls after the first two weeks are payable at $2.00 per office call. The individual contracts vary as to premiums and payments made for medical services and have no connection with the group contracts or the fees payable under such group contracts." What is the purpose of having variable premiums on these individual and family contracts? A. I want to make a correction. I said that was not the fee schedule, but when I looked at that letter I thought it related to group contracts. That is the fee schedule.

Q. This that you thought a few moments ago— A. Yes. Aren't you reading the same letter?

Q. No, this is a different letter.

Mr. Marcus: No.

Mr. Jaureguy: This is a different letter.

The Witness: Could I see that letter?

Mr. Jaureguy: Yes.

The Witness: Now may I have your question?

Mr. Jaureguy:

Q. What is the purpose of having variable premiums on your individual and group contracts? A. Well, Mr. Jaureguy, if I explain that you will want one of those contracts. The purpose of that letter was to acquaint the doctor with the contracts that we have for individuals and famil-

2757 ies. There are three of those. There is the standard contract, the special contract, and the superior contract. And there are two divisions. One is called the Hospital Security Plan, which is similar to the Blue Cross. The

other is the Medical and Hospital Security Plan, which embraces all that the first one has and adds to it medical service as well. They are divided into three classes.

Q. Into three classes? A. Into three classes, as I stated, the standard, which was intended for people—the standard, the special, and the superior. The standard contract, when that was written—what date was that letter?

Q. 1946, November 14th. A. At that time I think the standard contract was still $2.50 premium. The special contract, the premium was $3.50, and the superior contract was $4.00 or $4.50. Wait a minute. I may be wrong on that—$2.50, $3.00, and $4.00. The idea was to let the people select th contract they thought was best suited for their particular circumstances. People of modest means selected the standard contract. The fees that were prescribed in that contract were fees comparable with those that doctors were charging wage earners. The special contract was intended for people who could afford probably a little better accommodations in the hospital, and people that the doctor would charge more than they would the other class. Then
2758 we had the superior contract. That was the one where the doctors charge you bigger fees, people who wanted special accommodations at the hospitals, and they could select that. We have quite a few lawyers in town who are members of that. The general benefits are the same, but the fees that are paid under the several contracts are different.

Q. The fees paid to you? A. The fees that are paid the doctor.

Q. To the doctor? A. Yes. The premiums are higher and the fees that are paid for the service are higher.

Q. So that a man might go into a doctor and have a certain treatment, and the amount of reimbursement he would be entitled to for doctor's fees might be greater if he had one contract and less if he had another? A. That is right.

Q. One might be $5.00 and the other might be $3.00? A. That is right.

Q. So that if the doctor sent his bill, for instance, to you he could make it $5.00 if the man had a superior contract and it would only be $3.00 if he had the other type of contract? A. That happens quite frequently, where they send us a bill for the $5.00 and they send the patient $3.00.

Q. So that it is contemplated there that the fee that the doctor would charge the patient would depend upon
2759 the type of contract that the patient had with you? A. I didn't get that.

Q. The fee that the doctor should charge the patient, then, depends upon the type of contract that the patient has with you? A. Oh, no, no. It doesn't at all.

Q. I will put it this way: If the patient has a superior kind of contract he can secure reimbursement from you for a higher fee than though he has a smaller contract? A. That is right.

Q. When the doctor sends the bill to you, then, what does he send? Doesn't he look at the contract and send that schedule? A. I think that depends on the doctor. There are some doctors that are very considerate of their patients and they try to be very helpful with the patient and will charge the same as they would if the patient was going to pay the bill independent of his contract. But I think it is true that some doctors, when they know the man has an insurance contract, will increase their fee a little bit.

Q. Now of course you will agree, I think, that there are certain advantages to the National Hospital Association by having the doctor give his bill to the patient, if he gets a proper itemized bill, and the patient sending in the bill to you for reimbursement? A. Well, I don't know whether there is or not. I can't conceive that there would be any. I heard you discuss that with Mr. Brunkow yesterday,
2760 and I think probably I testified that there were. But that is a matter of reasoning.

Q. Of reasoning? A. Yes.

Q. I will give you some reasons. A. I wish you would.

Q. I am reading now from Exhibit 2728: "We prefer this plan where the employee personally takes up his bill since it gives us the advantage of the patient checking the services he has received and makes him more conscious of the benefits he has received under his contract." How is that reasoning?

Mr. Marcus: I would like to have counsel tell the witness what he is reading from. That has a distinct bearing upon the answer.

Mr. Jaureguy: Oh, you mean if he wrote it he will give one answer, and if I wrote it he will give a different answer?

The Witness: No you won't, Mr. Jaureguy. You will get the same answer.

Mr. Jaureguy: That is what I thought, too.

Q. What do you think of that as a reason? A. Well, let me have that again. You attorneys get to quarreling and I can't keep track.

Mr. Jaureguy: It upsets me, too.

"We prefer this plan where the employee personally takes up his bill since it gives us the advantage of the patient checking the services he has received and makes him
2761 more conscious of the benefits he has received under his contract."

A. Mr. Jaureguy, I think probably under the individual and family contracts that is very true, where the doctor sends the bill to us direct. On those contracts it is very possible that the patient does not appreciate the full value of that. I think that is a true statement. But then we have the hospitals to contend with, too, and there is our problem, you see. When the whole thing is said and done, it is an awful task—

Q. The same thing would be true of the hospitals, the same advantages? A. When you have to process so many accounts, I don't know. It is a pretty difficult thing. When bills are sent—

Q. You mean it is a difficult thing for you to decide which you prefer? A. Yes, it is sometimes at that.

Q. All right. Then I will read you this: "It also protects the hospital in cases not entitled to services at the Association's expense who request the hospital to charge their accounts to the Association, which sometimes occurs." A. Let me see that letter.

Q. Yes. And I will ask you to tell us where this came from. A. Maybe I wrote it. If I did—

Q. Yes, maybe you did. In fact, I am sure you did. A. Well, that is all right. I will say I wrote that letter. Yes, I do remember this letter. I remember the circumstan-
2762 ces very well, too.

Q. Do you stand by the statement that you prefer that system where the bill is given to the patient? A. I will tell you what happened here.

Q. First answer the question, and then you may explain it as long as you want to. A. I will have to explain it in order to answer the question.

Q. No, you answer the question. A. What was the question?

Q. Do you stand by your statement—

Mr. Marcus: Let him explain.

Mr. Jaureguy:

Q. Do you still stand by your statement that you prefer that system?

Mr. Marcus: Your Honor, I will ask that the witness be allowed to make his answer to the best of his ability.

The Court: He doesn't need any help.

The Witness: Thank you, Judge. No, I don't think I do. Well, this contract here was one that was—we were having trouble with—

Mr. Jaureguy:

Q. You don't want to answer the question first? You don't want to answer the question first, then? A. Yes, sure, I want to answer your question.

Q. The question can be answered "Yes" or "No." A. At one time we had quite a lot of business in Eugene. When you started talking about it I thought you were talk-
2763 ing of the individual contract. That is the group contract.

Q. Then on the group contract you prefer it? A. Then I got confused. I really did. But we had a lot of business in Eugene at one time, and this was among it. We had formerly had these people up in the State of Washington. They went down to Eugene and they wanted us to serve them there. We served them for many years and had very nice relations with them. Now then, about this time there was a new hospital association started there, the Pacific Hospital Association, I think it was. There had been one there before. Dr. Kuykendall used to be the contract doctor in Eugene. He was very tough competition, but he was good competition, clean competition; no trouble at all except that he was pretty hard to compete with. But about this time they had the two; they had the Pacific Hospital Association, and I believe Dr. Kuykendall in the meantime had deceased, and this got in new hands. It was then known as the Eugene Hospital & Clinic, and they put on an awful tough campaign.

(Recess until 2:00 o'clock P. M.)

2764 — Afternoon Session

Court reconvened at 2:00 o'clock P. M. pursuant to recess.

Mr. Marcus: Your Honor, with Mr. Jaureguy's permission I would like to put Dr. Phillips on the stand so he can return to his office.

DR. BEN I. PHILLIPS was thereupon produced as a witness in behalf of Plaintiff on rebuttal and, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Doctor, could you give us some of your medical background, what medical school you graduated from and about when you started practice? A. I graduated from the University of Oregon Medical School in 1927, June. I went from there as intern into Multnomah County Hospital until June of '28. Then I continued on in the Multnomah County Hospital as resident physician or residency until February of '30. In February of '30 I started my private practice in St. Johns.

Q. And have you been a member of any medical society? A. Yes. I am a member of the Multnomah County and of the American Medical Association.

2765 Q. Could you tell us something of Dr. Staats' medical background—by the way, is Dr. Staats associated with you in practice? A. Yes, sir.

Q. Could you tell us about his medical background? A. Well, Dr. Staats graduated from the University of Oregon Medical School the same as I. He took his internship for one year in Emanuel Hospital and then he came from his internship to my office. I don't remember. It was somewhere around '37, 1937.

Q. Now, Doctor, is St. Johns an industrial area? A. Yes, very much so. It is the heart of the industry of Portland.

Q. And would you say that many of the residents in that area are under some prepaid medical care coverage? A. Yes, sir.

Q. And are there many of those persons in your experience that have been covered under the hospital associations? A. Yes, sir.

Q. And have you dealt directly with the hospital associations in billing them for treating their subcribers? A. Yes and no. I will have to explain my stand in that particular situation.

Q. Yes. A. I have billed the hospital associations. I have never worked for any hospital association. I

2766 work only for the patient that comes to my office. If the patient coming into my office has a receipt from an insurance company that they have prepaid their medical

care services and request that I bill their insurance company I bill the insurance company. If the insurance company pays a fee satisfactory to me the bill is credited in full. If the insurance company does not pay the fee satisfactory to me I deduct from what the bill should be what the insurance company has paid and I bill the patient for the balance.

Q. Now, Doctor, were you ever called up on the carpet by the Board of Censors of the Multnomah County Medical Society because of your treating hospital association patients under their coverage?

Mr. Jaureguy: I object to that as not proper rebuttal.

The Court: Answer.

A. I don't know as you would call it "called up on the carpet". I was called before the Censor Board of the Multnomah Medical County Association, yes, sir.

Q. And were you called on one or two occassions? A. Twice.

Q. Could you tell us what occurred on the first occasion and as best as you can recall give us the approximate time. A. Oh, the first—I don't remember. Both cases were either in the latter part of '39 or the first of '40. I don't remember exactly. The first time most of the practicing physicians in St. Johns, in the area where I practice, were present at the meeting, and it was a meeting entirely of an informatory nature. It was not—

2767

Q. Who conducted that meeting? A. I can't, I do not remember who was on the Board or who was on the censor staff at that time. There was five or six medical men there. There was an outside man that was not a medical man, two of them.

Q. Was there an attorney there? A. Yes, there was an attorney there, and a reporter taking down the records of the meeting.

Q. And what occurred at the meeting? A. We were just asked—it was just more of an informatory meeting—asked if we were doing work for the lay-owned hospital associations and informed that if we were so doing that we were violating the charter of the American Medical Association. It was brought out at that time through questioning that the section of the charter we were violating was where the patients were compelled or forced under pressure to go to some doctor rather than to go to the physician of their choosing.

Q. And what was your position at that time with respect

to that? A. The same as I have stated, that I did not take care of patients that were forced to come to my office. I took care only of people who came to me because they wanted my service, and if in any way they could arrange so that
2768 I would not have to force my own patients to leave my office I would be glad to cooperate with them.

Q. Now, Doctor, do you recall when the second meeting took place, about how long after the first? A. Oh, it was several months. I can't tell you that. It was several months later.

Q. And do you recall any of the persons who conducted that meeting? A. Only one.

Q. Who was that? A. I can't say—he was on the Board of Censors—Dr. Martzloff. The only reason I remember him is he asked me the same question five times and got me aggravated.

Q. What question did he ask you? A. If I was doing work for the lay hospital associations. And each time I told him I was not, that I was working only for the patients that come to my office. I received no salary from any lay organization and I was not interested in any lay organization.

Q. Were any threats made to you at that meeting? A. How is that?

Q. Were any threats made to you at that meeting, the second meeting? A. Well, we were told the same—this time it was a little more rigid. We were told that if we were working for the lay organizations that we were vio-
2769 lating the charter of the American Medical Society and if we wished to continue as members of the American Medical or Multnomah County Medical Society we would have to stop working for the lay associations, but I didn't take that personally because I was not working for the lay association.

Q. And, as I understand it, you neither resigned from the Society nor resigned from treating patients who came to you under hospital association coverage, is that correct? A. I did not. I carried on just as I had been doing.

Q. Now, Doctor, were you aware after this second meeting of antagonism on the part of the Medical Society doctors, members of the Board of Censors, towards you because of your attitude? A. Very much so.

Q. Did you acquaint Drs. Klingler and Dr. Newsom of that attitude when they came to you? A. Yes. When the boys returned from the service in '45 and came to my office and wanted to be associated with me in St. Johns I told them

very definitely the situation that I was in, that I was in disrepute with the Medical Society and they might suffer from the same consequences if they associated themselves with me.

But, Dr. Klingler had lived at my home. He was the same as my own son. He had lived at my home for five years while going to medical school, and he was there all
2770 the time he was in training, in and out of my home, the same as my own boy, and he preferred to associate with me.

Dr. Newsom had worked with me in research work at the Medical School for two years and we were very closely associated, so he came with me.

Q. And Dr. Newsom left you at some time, did he not? A. Dr. Newsom was there one year.

Q. About one year. And then did he practice in the city or did he immediately remove to some other State, do you recall? A. Well, he went to San Diego. He had some equipment in my office and the truck with his furniture backed right up to the door of our office and loaded the whole thing in and took him to San Diego.

Q. Now, there has been testimony, Doctor, I believe by Dr. Chuinard, that the reason Dr. Klingler was not admitted to the Medical Society was because he had taken patients of yours in the hospital under his name. Could you comment on that? A. I was not on the staff of the Emanuel Hospital beginning in January of 1947. For several months I continued to send my patients to Emanuel Hospital and took care of them under my own name, and until finally when I would call up and say I was sending in a patient the girl at the desk told me that I was no longer on the staff and that she could not admit my patients, so I sent no more patients to Emanuel. I never sent a patient into Emanuel Hospital under Dr. Klingler's name. I have referred
2771 three or four cases from my office to Dr. Klingler because they were serious cases and cases in which I always called Dr. Sternberg to operate on, stomach cases. I referred those cases to Dr. Klingler. He sent them to Emanuel Hospital and Dr. Sternberg did the operation. I never took care of a case over there that was under Dr. Klingler's name.

Q. And were you on the staff of the Emanuel Hospital prior to 1947? A. I was on the staff of Emanuel Hospital for 17 years.

Q. And your staff membership was not renewed after 1947, is that right? A. Yes. A peculiar situation took place

in the latter part of '39. For some reason which we could not understand the by-laws of the Emanuel Hospital Staff were revised whereas men that had been on the staff and when they were once appointed to the staff they were members of the staff until that membership was terminated, but somewhere in the latter part of the '30s, '38 or '39, the by-laws were amended to read that a member of the staff was appointed for one year only and at the end of that year he was reappointed for the next year. I was appointed on the staff for 1946. In 1947 I was not appointed.

Q. Now, Doctor, when you were not reappointed did you attempt to discover why you were not appointed? A. Yes, very vigorously. It was quite a serious jolt because I had concentrated all, except the work the last few years
2772 during the war years when things were so rushed I I did a considerable amount of my work out at the Vanport Hospital, which was a hospital built there by the Government, equipped by the Government, and was staffed and was an excellent hospital, a better hospital as far as the staff and service was concerned than any in Portland—they gave excellent service and I sent many of my patients out there because the Emanuel Hospital was just overrun. You call in for an appointment for a surgery and maybe it would be two weeks, three weeks, before you could get the patient in the hospital for the surgery, and so I was using Vanport Hospital trying to relieve the pressure for the other boys at Emanuel. Other than that all of my work was done at Emanuel since I started practicing medicine. That is the majority of it, I should say.

Q. Were you ever given any reason by the Board—what is it, the Board of Trustees—at Emanuel? A. No, sir.

Q. Board of Trustees? A. No, sir, I was never given a reason. I wrote the Board of Trustees a letter in I think it was February of '47 explaining my stand. I stated that so far as I knew I had never committed any crime or had never done anything that I knew anything about that should eliminate me from the staff of the hospital. I wrote—and in that letter I stated that apparently there had been some mistake and that I would like to be reinstated, and if there
2773 was any reason that I should be dropped that in all fairness I asked them to call me in before the Board and give me a chance to defend my position and see, and if I was wrong and I had committed some error or done something that would eliminate me from the staff I was perfectly willing to back out, but I wanted some understanding.

I was never called by the Board. I talked to every man on the Executive Committee of the staff and no one would give me any reason whatsoever, and to this day I do not have the slightest idea why I was dropped or was not reappointed, I should say, to the staff of the Emanuel in '47.

Q. Doctor, would you say that you have a substantial practice? A. Yes, I have a good practice.

Q. And could you give us some idea of what— A We have a clinic group. We don't have a complete clinic organization in that we don't have a specialist in our group for every specialty in medicine, but we have a group of three doctors and seven nurses. I have 40 rooms in my office and I have the surgery. I have a complete X-ray, two fluoroscopes, I have a complete physiotherapy department and complete laboratory department. I have 5000 square feet in my office.

Q. One other question, Doctor. To your knowledge has Dr. Staats ever sent his patients to the Emanuel Hospital under Dr. Klingler's name? A. Not that I know of. I know of one circumstance which is a young lady that works
2774 at our office and she was a maternity case. She went to the Emanuel Hospital. She was a graduate from Emanuel Hospital. She went to Emanuel Hospital and when she entered she told them she was a patient of Dr. Staats. Whoever admits them told her they could not admit her under the name of Dr. Staats, but we will admit you under the name of Dr. Klingler. She was admitted under Dr. Klingler's name, not at Dr. Staats' request but at the hospital request, and Dr. Staats delivered her. That is one case I know of. The rest I do not know.

Mr. Marcus: That is all.

Cross Examination

By Mr. Jauregny:

Q. Now, you say Dr. Newsom was with you for about a year? A. That is right.

Q. Before he left he became a member of the Multnomah County Medical Society? A. I do not know. Dr. Newsom had been practicing medicine for several before he went into the service. You see, he was graduated just two years after I did, and he had been practicing quite awhile before he went into the Army. I thought possibly he was a member before he ever went into the Army.

Q. Member of the Multnomah County Medical Society?

A. Well, whether the Multnomah or not—he was
2775 a member in Washington and a member of the American Medical Association through his association with the Washington—

Q. Then he went from here to California? A. He went from here to Los Angeles—or to San Diego.

Q. Is there a group of doctors at Emanuel Hospital that in the first instance passes on the question of whether doctors shall be reappointed on the staff? A. That is right; the Executive Committee.

Q. And is there an Advisory Committee? A. I expect —I think maybe there is an Advisory Committee. I am not sure about that. I think maybe before it comes up to the Executive Committee it goes to the Advisory Committee, and after it passes the Advisory Committee it goes to the Executive Committee, and after the Executive Committee to the Board of Directors of the hospital.

Q. Now, who were on that Executive Committee this year you were not reappointed? A. I don't know as I can remember. One was Dr. Harold Palmer.

Q. Dr. Harold Palmer is from St. Johns? A. Dr. Adna Boyd.

Q. Adna Boyd. Dr. Watson? A. Dr. Willis Watson was President.

Q. Of the staff? A. Of the staff at that time. Dr. Ivan Woolley, Dr. Chuinard, Dr. Wilson, Dr. William Wilson I think it is.

2776 Q. Dr. Severeide? A. Yes, Dr. Severeide. He was Vice President at the time.

Q. Now, Dr. Watson who was the President was not a member of the Medical Society, was he? A. At that time, no. He had resigned at the time I refused to resign.

Q. And he was at that time President of the Executive Committee? A. Yes.

Q. This same Executive Committee that did not recommend your reappointment? A. That is right.

Q. And Dr. Palmer, he is one of the St. Johns doctors? A. That is right.

Q. And he had gone before the Board of Censors about the same time you had, had he not? A. That is right.

Q. Same meeting? A. The same meeting.

Q. Same meeting. And he like you remained a member of the Medical Society? A. That is right.

Q. Are you a member of the staff of any other hospitals? A. Now?

Q. Yes, sir. A. Yes, sir.

2777 Q. What other hospitals? A. Holladay Park.

Q. Holladay Park? A. Yes.

Q. And you have been a member of the staff of that hospital how long? A. A year, a little over a year. I became a member there after the Vanport Hospital washed away.

Mr. Jaureguy: That is all.

Mr. Marcus: That is all, Doctor.

(Witness excused.)

Mr. Marcus: Mr. Bechtold.

2778 Mr. C. C. Bechtold, a witness in behalf of Plaintiff on rebuttal, having been previously duly sworn, resumed the stand and testified as follows:

Cross Examination (Continued)

By Mr. Jaureguy:

Q. I think we were, were we not, discussing Exhibit 2728 where you were giving Forcia and Larson the reasons why you preferred the bill to be given to the patient instead of sent to the National Hospital Association. A. That was the letter, I believe, yes.

Q. And you have no reason to change the views that you express in that letter, have you? A. I had that letter at the time. Could I have it back, please?

Q. Surely. A. I believe I was relating what caused us to write this letter. At this time there were two associations, local associations, in the field and they were trying to boycott other associations. We had had this business for some considerable time as well as we had other business in that section, and naturally we didn't care to lose it. We wrote this kind of a letter to employers telling them that we would carry on the same as we had before. That was the purpose of the letter. It was natural that we didn't care to lose our business. We had hopes that we would be able to carry on as we did under this plan, but it didn't work out. We lost the contract as well as we lost other business in that city.

2779 Q. Now, the question I asked you is whether you have changed the views, or do you still have the same views on the subject that you had when you wrote that letter? A. Yes, I have changed my views a great deal since we wrote this letter.

Q. In what respect? A. Well, I have found out that some of the things we state in this letter, most of them, weren't workable.

Q. Of course I am speaking now of that second paragraph of the letter where you say you prefer the system where the patient is given the bill. A. That is right. We stated at the time the purpose was, as I say, we wanted to give an excuse to the employer and somewhat wishful thinking here that it would work out.

Q. That didn't really didn't express your views? A. At the time I would probably say it did. That was in 1942. It probably did at that time.

Q. And how long did you entertain those views? A. Well, those questions are pretty difficult to answer. I don't know. Our experience has caused us to change our views a great deal.

Q. Are you talking now about hospitals or doctors? A. both.

Q. Well, you are not departing from the testimony you gave before that it is a matter of indifference to
2780 you whether the doctors bill the patient or bill you? A. You mean in my first testimony?

Q. Yes. A. Well, I think I have. I have given that quite serious thought since that time and I have come to the conclusion I made a silly remark.

Q. You made a what? A. A foolish remark.

Q. You mean in your testimony here? A. Originally, yes.

Q. You mean you now do not entertain the same views that you expressed in your testimony? A. Would you read that for me, please.

Q. Yes. Page 1 of the deposition:

"Q. Then I take it that in between the time the members enter the doctor's office and the time you pay the bill somebody has advised the doctor that this particular patient is a member of your association? A. That is not required. Sometimes it is done, sometimes it is not.

"Q. You say it is not required? You mean not required by the doctor or is not required by you? A. Not required by the Association.

"Q. In other words, in so far as the Association is concerned it is perfectly satisfactory for a patient to
2781 go to a doctor and the doctor furnish the service without ever knowing that the patient is a member of your association? A. That is true.

"Q. Is it your policy to encourage that or discourage that or is that a matter of indifference to you? A. A matter of indifference to us.

"Q. That is, it is not of any consequence to you whether the doctor knows when he is furnishing the service that your company is going to pay for it or not? A. That is right.

"Q. So you haven't any preference then whether the doctor sends you the bill or sends the member the bill? A. That is correct.

"Q. Well if you haven't any preference then you have not found one system is better than the other? A. Well, the doctors sometimes have a preference, particularly in the case where the man does not have any money, then they prefer to send us the bill.

"Q. If the man hasn't any money the doctor would rather send you the bill? A. Yes.

"Q. And likewise if the man hasn't any money the doctor would rather have you send him the check? A. That is quite true.

2782 "Q. Would you say most of the cases result in the doctor sending you the bill or in the patient sending you the bill? A. In most cases the doctors send us the bills.

"Q. Therefore in most cases you send your check to the doctor? A. That is correct.

"Q. Would you be able to give us about what proportion that might be? Would that be as high as three-fourths of the cases? A. I wouldn't know that."

Have you changed your views on what you said then? A. Yes, I have, Mr. Jaureguy, materially.

Q. You have what? A. I have materially changed my views on that.

Q. Now, this is May 19th, 1949. A. That is right, that is right. I will have to confess at that time I wasn't thinking very seriously, but I gave it a lot of thought since then and I commenced to analyze the situation and I found it makes a lot of difference. I am very free to state that at the time you asked me those questions—I wouldn't say I was confused—but I hadn't made an analysis of it, hadn't made a study of it.

Q. Hadn't made a study? A. No, I hadn't, because I didn't expect the questions. If given a chance to think it over I would certainly have answered differently
2783 because it makes a lot of difference.